



# CITY OF ALAMEDA • CALIFORNIA

SPECIAL MEETING OF THE CITY COUNCIL  
TUESDAY - - - NOVEMBER 15, 2005 - - - 6:00 p.m.

Time: Tuesday, November 15, 2005 6:00 p.m.

Place: City Council Chambers Conference Room, City Hall, corner  
of Santa Clara Avenue and Oak Street.

Agenda:

1. Roll Call.

2. Public Comment on Agenda Items Only.

Anyone wishing to address the Council on agenda items only,  
may speak for a maximum of 3 minutes per item.

3. Adjournment to Closed Session to consider:

3-A. CONFERENCE WITH LABOR NEGOTIATORS

Agency Negotiators: Craig Jory and Human Resources  
Director.

Employee Organizations: Executive Management Employees,  
International Brotherhood of  
Electrical Workers, and Management  
and Confidential Employees  
Association.

3-B. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Name of case: Citizens for a Megaplex-Free Alameda  
v. City of Alameda, et al.

3-C. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: 2900 Main Street.

Negotiating Parties: City of Alameda and Alameda Gateway,  
Ltd.

Under Negotiation: Price and terms.

3-D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Name of case: Mohlen & Skrinde v. City of Alameda.


3-E. CONFERENCE WITH LABOR NEGOTIATORS

Agency Negotiators: Marie Gilmore and Frank Matarrese.

Employee: City Attorney.

4. Announcement of Action Taken in Closed Session, if any.

Adjournment

  
Beverly Johnson, Mayor



## CITY OF ALAMEDA • CALIFORNIA

### IF YOU WISH TO ADDRESS THE COMMISSION:

1. Please file a speaker's slip with the Deputy City Clerk and upon recognition by the Chair, approach the podium and state your name; speakers are limited to three (3) minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstration are prohibited during Commission meetings.

### SPECIAL MEETING OF THE COMMUNITY IMPROVEMENT COMMISSION

TUESDAY - - - NOVEMBER 15, 2005 - - - 7:27 P.M.

Location: **City Council Chambers**, City Hall, corner of Santa Clara Avenue and Oak Street.

### Public Participation

Anyone wishing to address the Commission on agenda items or business introduced by the Commission may speak for a maximum of 3 minutes per agenda item when the subject is before the Commission. Please file a speaker's slip with the Deputy City Clerk if you wish to speak on an agenda item.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### CONSENT CALENDAR

- 1-A. Minutes of the Special Joint City Council and Community Improvement Commission Meeting held on November 1, 2005.
- 1-B. Recommendation to authorize the Executive Director to enter into an agreement with ERM-West, Inc. in an amount not to exceed \$194,320 to evaluate PAH contamination on a portion of the Fleet Industrial Supply Center Property. [Development Services]

### AGENDA ITEMS

None.

### ADJOURNMENT

Beverly Johnson, Chair  
Community Improvement Commission



## CITY OF ALAMEDA • CALIFORNIA

### IF YOU WISH TO ADDRESS THE COUNCIL:

1. Please file a speaker's slip with the Deputy City Clerk and upon recognition by the Mayor, approach the podium and state your name; speakers are limited to three (3) minutes per item.
2. Lengthy testimony should be submitted in writing and only a summary of pertinent points presented verbally.
3. Applause and demonstration are prohibited during Council meetings.

AGENDA - - - - - REGULAR MEETING OF THE CITY COUNCIL  
TUESDAY - - - NOVEMBER 15, 2005 - - - 7:30 P.M.

[Note: Regular Council Meeting convenes at 7:30 p.m., **City Hall, Council Chambers, corner of Santa Clara Ave and Oak St.**]

The Order of Business for City Council Meeting is as follows:

1. Roll Call
2. Agenda Changes
3. Proclamations, Special Orders of the Day and Announcements
4. Consent Calendar
5. Agenda Items
6. Oral Communications, Non-Agenda (Public Comment)
7. Council Communications (Communications from Council)
8. Adjournment

### Public Participation

Anyone wishing to address the Council on agenda items or business introduced by Councilmembers may speak for a maximum of 3 minutes per agenda item when the subject is before Council. Please file a speaker's slip with the Deputy City Clerk if you wish to address the City Council.

SPECIAL MEETING OF THE CITY COUNCIL 6:00 p.m.  
CITY COUNCIL CHAMBERS CONFERENCE ROOM  
Separate Agenda (Closed Session)

SPECIAL MEETING OF THE COMMUNITY IMPROVEMENT 7:27 P.M.  
COMMISSION, CITY COUNCIL CHAMBERS  
Separate Agenda

1. ROLL CALL - City Council
2. AGENDA CHANGES
3. PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS
4. CONSENT CALENDAR

Consent Calendar items are considered routine and will be enacted, approved or adopted by one motion unless a request for removal for discussion or explanation is received from the Council or a member of the public.

- 4-A. Minutes of the Special and Regular City Council Meetings and Special Joint City Council and Community Improvement Commission Meeting held on November 1, 2005. [City Clerk]
- 4-B. Bills for ratification. [Finance]
- 4-C. Recommendation to approve the purchase of three marked patrol vehicles from Film Vehicle Services in the amount of \$80,493. [Police Department]
- 4-D. Recommendation to approve an agreement with Holland & Knight, LLP in the amount of \$96,000 for federal legislative advocacy services. [City Manager]
- 4-E. Adoption of Resolution Approving Proposed Amendment to the 1986 Measure B Alameda County Transportation Expenditure Plan. [Public Works]
- 4-F. Adoption of Resolution Establishing Annual Free All-Day Parking, with a Three-Hour Maximum Per Car Per space, for the Webster Street and the Park Street Business Districts on December 3, 10, and 17, 2005. [Development Services]

5. REGULAR AGENDA ITEMS

None.

6. ORAL COMMUNICATIONS, NON-AGENDA (Public Comment)

Any person may address the Council in regard to any matter over which the Council has jurisdiction or of which it may take cognizance, that is not on the agenda.

7. COUNCIL COMMUNICATIONS (Communications from Council)

- 7-A. Consideration of Mayor's nominations for appointment to the Economic Development Commission (2 vacancies) and Recreation and Park Commission.

7-B. Discussion of a proposal for the City of Alameda, as a participant in the Alameda County Lead Poisoning Prevention Program, to partially fund a survey to be used in analyzing the feasibility of increasing the County Service Area fee for lead abatement education and services. (Mayor Johnson)

8. ADJOURNMENT

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- For use in preparing the Official Record, speakers reading a written statement are invited to submit a copy to the City Clerk at the meeting or e-mail to: lweisige@ci.alameda.ca.us
- Sign language interpreters will be available on request. Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 72 hours prior to the Meeting to request an interpreter.
- Equipment for the hearing impaired is available for public use. For assistance, please contact the City Clerk at 747-4800 or TDD number 522-7538 either prior to, or at, the Council Meeting.
- Accessible seating for persons with disabilities, including those using wheelchairs, is available.
- Minutes of the meeting available in enlarged print.
- Audio Tapes of the meeting are available upon request.
- Please contact the City Clerk at 747-4800 or TDD number 522-7538 at least 48 hours prior to the meeting to request agenda materials in an alternative format, or any other reasonable accommodation that may be necessary to participate in and enjoy the benefits of the meeting.

**UNAPPROVED MINUTES**  
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND  
COMMUNITY IMPROVEMENT COMMISSION MEETING  
TUESDAY - - - NOVEMBER 1, 2005 - - - 7:25 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:45 p.m.  
Councilmember/Commissioner Matarrese led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,  
deHaan, Gilmore, Matarrese, and  
Mayor/Chair Johnson - 5.

Absent: None.

CONSENT CALENDAR

Councilmember/Commissioner Matarrese moved approval of the Consent Calendar.

Vice Mayor/Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*05 ) Minutes of the Special Joint City Council and Community Improvement Commission and Special Community Improvement Commission meetings held on October 18, 2005. Approved.

(\*05- ) Recommendation to accept the Quarterly Financial Report for the period ending September 30, 2005 and approve the supplemental appropriations. Accepted.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 7:46 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk  
Secretary, Community Improvement  
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

## **City of Alameda**

### **Interoffice Memorandum**

November 2, 2005

**To:** Honorable Chair and Members of the  
Community Improvement Commission

**From:** Debra Kurita  
Executive Director

**Re:** Recommendation that the Community Improvement Commission Authorize the  
Executive Director to Enter into an Agreement Not-to-Exceed \$194,320 with ERM-  
West, Inc. to Evaluate PAH Contamination on a Portion of the Fleet Industrial  
Supply Center (FISC) Property

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### **Background**

Pursuant to special Federal legislation, the City of Alameda acquired the former Fleet Industrial Supply Center (FISC) property from the United States Navy (Navy) in July 2000. The property was subsequently conveyed to the Community Improvement Commission (CIC).

Prior to property transfer, the Navy conducted environmental testing that indicated the presence of polycyclic aromatic hydrocarbons (PAH's). Therefore, the Navy and State Department of Toxic Substances Control (DTSC) placed a covenant precluding residential reuse on the property as part of the conveyance negotiations. The property was subsequently entitled for 1.3 million square feet of office and research and development facilities via a Disposition and Development Agreement (DDA) between the CIC and Catellus (now ProLogis by recent acquisition).

With the downturn in the office market, and the continued strong residential market, the CIC and ProLogis have been exploring alternative reuse scenarios for the FISC property. As the property owner, the CIC would like to investigate the feasibility of lifting the covenant prohibiting residential reuse on a portion of the FISC property (see attached map).

### **Discussion**

The first step in evaluating the feasibility of lifting the covenant precluding residential reuse is to do sampling to determine the nature and extent of PAH's in the soil. In addition to PAH sampling, there may be required sampling for PCB's and cadmium in one area of the site. Staff has had several meetings with DTSC to ensure that the proposed sampling is carried out in a manner that is consistent with DTSC's requirements. This will ensure that at the end of the process, with the proper remediation, DTSC will consent to lifting the covenant and allow residential reuse.

Staff recommends that the CIC authorize the Executive Director to enter into a time and materials agreement with ERM-West, Inc. (ERM), in an amount not-to-exceed \$194,320, to conduct the

**Report 1-B**

**11-15-05**



required sampling and analysis for presentation to, and approval by, DTSC. The work scope includes:

- compiling historical data, including all Navy sampling records;
- preparing a Remedial Investigation Workplan for DTSC's approval;
- obtaining all necessary permits;
- conducting the sampling at approximately 110 locations with three samples at different soil depths per location;
- providing the samples to the laboratory;
- analyzing the lab results; and
- preparing a Remedial Investigation Report for DTSC.

Following this scope of work, and based on the Remedial Investigation Report, the next step will be determining the actual remediation work necessary to lift the covenant precluding residential reuse. Any contract to undertake remediation work would come back to the CIC at a later date.

ERM has been working at the East Housing/FISC site since 1997, when Catellus retained the firm to be part of its team during the master developer selection process. ERM has continued to work on all environmental-related issues for the project including drafting the Remedial Action Workplan that resulted in the City's Marsh Crust Ordinance; preparing the DTSC-approved Site Management Plan that contains procedures for handling hazardous materials that are discovered during the redevelopment process; overseeing all environmental aspects of installing the backbone infrastructure through the benzene plume; monitoring the chlordane remediation project; coordinating with the environmental regulators; and attending Navy FISC BCT and RAB meetings as needed.

Given ERM's on-going involvement at the East Housing/FISC site and existing relationships with the Navy and the various environmental regulators, particularly DTSC, it was determined that it would be most cost-effective to retain ERM to undertake this new environmental work at FISC. The bulk of the work scope, over 50%, is the field investigation and the laboratory analysis. ERM bid this aspect of the work, obtaining bids from several laboratories and equipment rental businesses to ensure the most competitive prices. In addition, due to the large number of samples (330) required by DTSC, ERM was able to negotiate a reduction in the per-sample cost from the lab's published price list. Lastly, staff asked Russell Resources, the City's environmental consultant, to provide a peer review of the work scope and budget. Russell Resources concurs that the budget is appropriate and competitive based on the sampling grid requested by DTSC.

#### **Budget Consideration/Financial Impact**

No general fund monies will be used for this project. The proposed Agreement will be funded from Bayport project revenues pursuant to the DDA. It is anticipated that these funds will be reimbursed from future land sale proceeds.

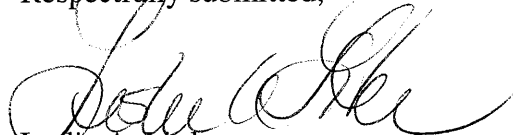
**Municipal Code/Policy Document Cross Reference**

The Alameda Municipal Code is not effected by the recommendation to award a contract to ERM to investigate PAH's on a portion of the FISC property. In addition, the recommendation does not conflict with existing policy documents.

**Recommendation**

It is recommended that the CIC authorize the Executive Director to enter into a time and materials, agreement with ERM-West, Inc., in an amount not-to-exceed \$194,320 to evaluate PAH contamination on a portion of the FISC property.

Respectfully submitted,



Leslie A. Little

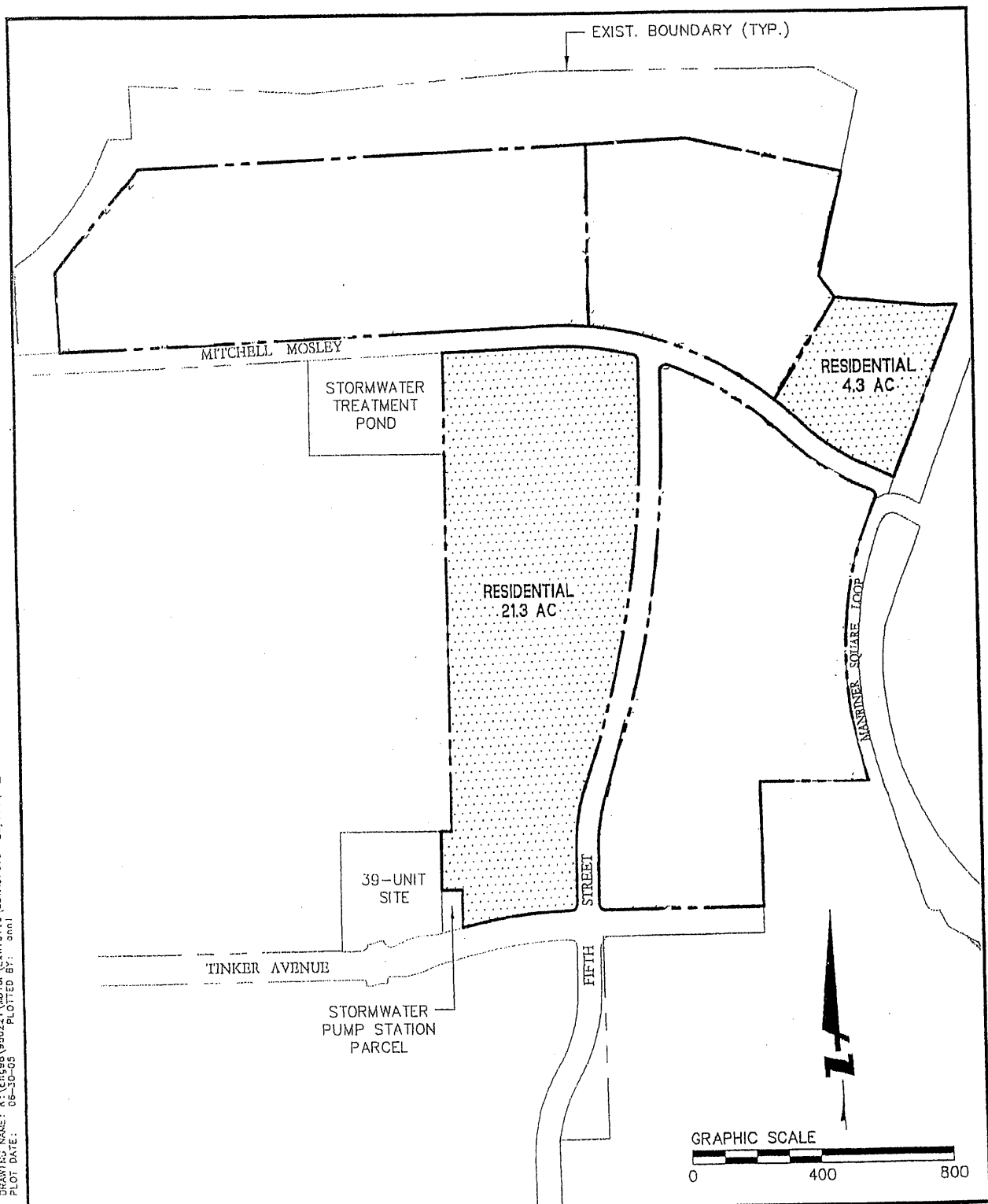
Development Services Director



Debbie Potter  
Base Reuse and Redevelopment Manager

Attachments: Map and Agreement

DRAWING NAME: K:\Eng\980221\05\05\Exhibits\Commercial Layout\05\_063D-EXHIBIT A-rev.dwg  
PLOT DATE: 08-30-05 PLOTTED BY: ann



4780 Chabot Dr., Suite 104  
Pleasanton, CA 94588-3323  
925/396-7700  
925/396-7799 (Fax)

## EXHIBIT A

Drawn APL  
Job No. 980221-11

Checked APL  
Date 6/30/05

Approved DGS  
Sheet 1 of 1

## CONSULTANT AGREEMENT

THIS AGREEMENT, entered into this 15<sup>th</sup> day of November 2005, by and between COMMUNITY IMPROVEMENT COMMISSION of the CITY OF ALAMEDA, a public body (hereinafter referred to as "CIC"), and ERM, a California corporation, whose address is 1777 Botelho Drive, Suite 260, Walnut Creek, CA 94596, (hereinafter referred to as "Consultant"), is made with reference to the following:

### **RECITALS:**

A. CIC is a public body duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.

B. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

D. CIC and Consultant desire to enter into an agreement for services upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

#### **1. TERM:**

The term of this Agreement shall commence on the 15th day of November 2005, and shall terminate on the 30th day of June 2006, unless terminated earlier as set forth herein.

#### **2. SERVICES TO BE PERFORMED:**

Consultant shall perform each and every service set forth in Exhibit "A", which is attached hereto and incorporated herein by this reference.

#### **3. COMPENSATION TO CONSULTANT:**

Consultant shall be compensated for services performed pursuant to this Agreement in the amount not to exceed \$194,320.00 (Exhibit "B").

#### **4. TIME IS OF THE ESSENCE:**

Consultant and CIC agree that time is of the essence regarding the performance of this Agreement.

#### **5. STANDARD OF CARE:**

Consultant agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by CIC nor have any contractual relationship with City.

#### **6. INDEPENDENT PARTIES:**

CIC and Consultant intend that the relationship between them created by this Agreement is

that of employer-independent Consultant. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by CIC to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave are available from CIC to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

**7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Consultant assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Consultant shall indemnify and hold CIC harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Consultant.

**8. NON-DISCRIMINATION:**

Consistent with CIC's policy that harassment and discrimination are unacceptable employer/employee conduct, Consultant agrees that harassment or discrimination directed toward a job applicant, a CIC employee, or a citizen by Consultant or Consultant's employee on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

**9. HOLD HARMLESS:**

Consultant shall indemnify, defend and hold harmless CIC, City, its City Council, boards, commissions, officials, employees and volunteers ("Indemnitees") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("Claims"), arising from or in any manner connected to Consultant's negligent act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence on behalf of the Consultant, Consultant shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Consultant. However, Consultant shall not be obligated to indemnify Indemnitees from Claims arising from the sole or active negligence or willful misconduct of Indemnitees.

As to Claims for professional liability only, Consultant's obligation to defend Indemnitees (as set forth above) is limited to the extent to which its professional liability insurance policy will provide such defense costs.

CIC agrees that Consultant shall not be liable to CIC or any third party for the creation or existence of any type of hazardous or toxic waste, material, chemical, compound, or substance, or any other type of environmental hazard, contamination, or pollution, whether latent or patent, or the release thereof or the violation of any law or regulation relating thereto, existing at the site of the Project prior to commencement of the performance of services hereunder ("Pre-existing Condition") except to the extent any such Pre-existing Condition is exacerbated by the negligence or willful misconduct of Consultant or its subcontractors."

**10. INSURANCE:**

On or before the commencement of the terms of this Agreement, Consultant shall furnish CIC with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with paragraphs 10A, B, C and D. Such certificates, which do not limit Consultant's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage materially reduced before the expiration date thereof, the insurer affording coverage shall endeavor to provide thirty (30) days' advance written notice to the CIC by mail, "Attention: Risk Manager." It is agreed that Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to CIC and licensed to do insurance business in the State of California. Endorsements naming CIC, City of Alameda, its City Council, boards, commissions, officials, employees and volunteers as additional insured shall be submitted with the insurance certificates.

**A. COVERAGE:**

Consultant shall maintain the following insurance coverage:

(1) **Workers' Compensation:**

Statutory coverage as required by the State of California.

(2) **Liability:**

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$500,000 each occurrence
	\$1,000,000 aggregate - all other
Property Damage:	\$100,000 each occurrence
	\$250,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$1,000,000 will be considered equivalent to the required minimum limits shown above.

(3) **Automotive:**

Comprehensive automobile liability coverage in the following minimum limits:

Bodily injury:	\$500,000 each occurrence
Property Damage:	\$100,000 each occurrence

or

Combined Single Limit:	\$500,000 each occurrence
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(4) **Professional Liability:**

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.

**B. SUBROGATION WAIVER:**

Consultant agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to its insurance for recovery. Consultant hereby grants to CIC, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or CIC with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of said Consultant may acquire against CIC by virtue of the payment of any loss under such insurance.

**C. FAILURE TO SECURE:**

If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, CIC shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the

insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

**D. ADDITIONAL INSURED:**

CIC, City of Alameda, its City Council, boards, commissions, officials, employees and volunteers shall be named as an additional insured under all insurance coverages, except any professional liability and workers' compensation insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

**E. SUFFICIENCY OF INSURANCE:**

The insurance limits required by CIC are not represented as being sufficient to protect Consultant. Consultant is advised to consult Consultant's insurance broker to determine adequate coverage for Consultant.

**11. CONFLICT OF INTEREST:**

Consultant warrants that it is not a conflict of interest for Consultant to perform the services required by this Agreement. Consultant may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

**12. PROHIBITION AGAINST TRANSFERS:**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of CIC. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from CIC under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to CIC by Consultant.

**13. SUBCONTRACTOR APPROVAL:**

Unless prior written consent from CIC is obtained, only Consultant shall perform services under Agreement, unless Consultant first obtains written approval from CIC.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in reasonable conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

**14. PERMITS AND LICENSES:**

Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City of Alameda Business License, that may be required in connection with the performance of services hereunder.

**15. REPORTS:**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by

Consultant pursuant to or in connection with this Agreement shall be the exclusive property of CIC. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to CIC the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of CIC, and all publication rights are reserved to CIC.

B. All Reports prepared by Consultant may be used by CIC in execution of implementation of:

- (1) The original Project for which Consultant was hired;
- (2) Completion of the original Project by others;
- (3) Subsequent additions to the original project; and/or
- (4) Other CIC projects as appropriate.

C. Consultant shall, at such time and in such form as CIC may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided.

E. No report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement shall be made available to any individual or organization by Consultant without prior approval by CIC.

F. Notwithstanding anything to the contrary contained herein, any reuse of the Reports for any purpose other than that specifically intended in this Agreement, the use of such Reports as modified by the CIC for any purposes, and/or the use of the Reports in connection with other CIC projects, will be at CIC's sole risk and without financial liability or legal expense to Consultant.

#### **16. RECORDS:**

Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by CIC that relate to the performance of services under this Agreement.

Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of CIC or its designees at all proper times, and gives CIC the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

#### **17. COMMUNITY REDEVELOPMENT LAW REQUIREMENTS:**

A. To the greatest extent feasible, contracts for work to be performed in connection with any redevelopment project shall be awarded to business concerns which are located in, or owned in substantial part by persons residing in the Business and Waterfront Improvement Project (BWIP), the West End Community Improvement Project (WECIP), or the Alameda Point Improvement Project (APIP).

B. To insure training and employment opportunities for lower-income residents within the BWIP, WECIP or APIP, Consultant and any Subcontractors are encouraged to give employment preference to residents within the BWIP, WECIP or APIP for contracts valued over \$100,000.

C. Clauses (A) and (B) shall be included in any subcontract.



**18. NOTICES:**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Consultant to CIC shall be addressed to CIC at:

City of Alameda  
Development Services Department  
950 West Mall Square, 2<sup>nd</sup> Floor  
Alameda, CA 94501  
ATTN: Debbie Potter

All notices, demands, requests, or approvals from CIC to Consultant shall be addressed to Consultant at:

ERM  
1777 Botelho Drive, Suite 260  
Walnut Creek, CA 94596  
ATTN: Michael E. Quillin, P.G.

**19. TERMINATION:**

In the event Consultant fails or refuses to perform any of the material provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) days after receipt by Consultant from CIC of written notice of default, specifying the nature of such default and the steps necessary to cure such default, CIC may terminate the Agreement forthwith by giving to the Consultant written notice thereof.

CIC shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Consultant as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

**20. COMPLIANCES:**

Consultant shall comply with all laws, state or federal and all ordinances, rules and regulations enacted or issued by CIC.

**21. CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.)

Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

**22. ADVERTISEMENT:**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from CIC to do otherwise.

**23. WAIVER:**

A waiver by CIC of any breach of any term, covenant, or condition contained herein, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**24. INTEGRATED CONTRACT:**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both CIC and Consultant.

**25. INSERTED PROVISIONS:**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

**26. CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

**27. WASTE HANDLING:**

In the event hazardous or toxic waste, material, chemical, compound, or substance materials and any waste regulated by local, state or federal law, including but not limited to any sampling materials such as drill cuttings and fluids or asbestos (the "Waste") are encountered by Consultant or result from Consultant's performance hereunder, Consultant will appropriately containerize and label the Waste and, using a manifest signed by CIC as generator, have the Waste transported to a location selected by CIC for final disposal. CIC acknowledges that at no time under this Agreement does Consultant assume title to or the risk of loss associated with the Waste. CIC agrees to defend and hold Consultant harmless from any and all liability (including, without limitation, any liability derived from any so-called state or Federal "Superfund" law), claims, damages, suits, losses, penalties, fines, or expenses (including attorney's fees) in any way related to Consultant's storage, transportation and/or disposal of the Waste, except to the extent such liability, claims, damages, suits, losses, penalties, fines or expenses result directly and solely from Consultant's negligence or willful misconduct.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

CONSULTANT

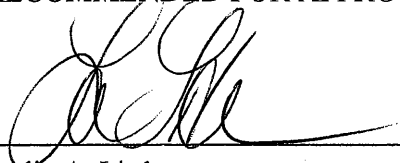
COMMUNITY IMPROVEMENT  
COMMISSION



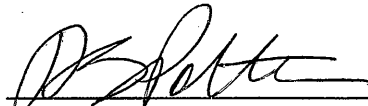
By: MICHAEL E. QUILLIN  
Title: PRINCIPAL, ERM-WEST, INC.

Debra Kurita  
Executive Director

RECOMMENDED FOR APPROVAL:



Leslie A. Little  
Development Services Director



Debbie Potter, Manager  
Base Reuse & Redevelopment Division

APPROVED AS TO FORM:



David Brandt  
Assistant City Attorney

## Exhibit "A"

### Environmental Resources Management

1777 Botelho Drive  
Suite 260  
Walnut Creek, CA 94596  
(925) 946-0455  
(925) 946-9968 (fax)

### **Work Scope to Evaluate the Extent of PAH Contamination on a Portion of the Fleet and Industrial Supply Center (FISC) Property**

ERM-West, Inc. (ERM) presents to the City of Alameda (City) this proposal addressing development and implementation of a strategy for further evaluation of environmental conditions at the FISC. The overall objective of the proposed study is to evaluate the occurrence of polycyclic aromatic hydrocarbons (PAHs) in two areas of the FISC (totaling approximately 25 acres).

Specific objectives include:

- Develop with DTSC an appropriate sampling strategy for evaluating PAHs in the two areas noted on the attached map;
- Negotiate with DTSC, as appropriate, a remedial action level for B(a)PE that considers exposure risk under an unrestricted residential reuse scenario; and
- Collect data for PAHs in soils sufficient to (1) augment the Navy's FS in demonstrating that the specific parcels of interest are suitable for unrestricted residential reuse, and (2) determine the response actions that may be necessary to render the entirety of the specific parcels suitable for unrestricted residential reuse.
- Evaluate the data for IR-02 PCB and cadmium to determine where residential reuse is acceptable without further remediation and where additional sampling is needed to determine the remediation effort, if any, needed to allow residential reuse.

### ***PROPOSED SCOPE OF WORK***

To meet the stated objectives, ERM proposes a number of activities, as described below.

#### ***Compile Summary of Historical Data***

Using primarily the ALDD, but with supplemental information provided in previous Navy documentation (e.g., *Remedial Investigation Report*), ERM will develop a summary of historical PAH and IR-02 PCB and cadmium data within the proposed residential parcels and in nearby areas. ERM's preliminary evaluation of data presented in the ALDD suggests that some of the PAH data may be useable but that more detailed

sampling and analysis for PAHs will be required. DTSC has independently come to the same conclusion. Completion of the proposed data summary will be necessary to implement the next task, which addresses strategy development with DTSC.

### *Strategy Development with DTSC*

In conjunction with development of the data summary, ERM will work with the City and DTSC to develop a strategy for implementing additional investigation for PAHs, PCBs, and cadmium. Our objectives will be to evaluate logistical issues surrounding the potential removal of residential reuse restrictions as a remedy for the prospective residential parcels on the FISCA, and to develop a conceptual scope of work for performing the necessary additional investigation.

As part of ongoing strategy development with DTSC, and a topic to be considered during the initial meeting with DTSC, it will be necessary and appropriate to revisit DTSC's risk-based B(a)PE (benzo(a)pyrene equivalent) ceiling value to evaluate the basis for any possible changes in that number (0.62 mg/kg). Furthermore, we will need to develop with DTSC an appropriate statistical approach to determining the circumstances under which remediation of soil exhibiting exceedances of the ceiling value would be necessary. Our scope of work includes up to four meetings with DTSC (and the Navy, as necessary and appropriate), either at the City's offices or DTSC's offices in Berkeley, to finalize this strategy.

### *Workplan/Health and Safety Plan Development*

ERM will prepare a workplan detailing the proposed approach to investigating PAHs in the subject areas. Some of the samples from the subject areas that fall within IR-02 will also be analyzed for PCBs and cadmium. Proposed sampling locations (based on 110 locations and three samples at varying depths per location for a total of 330 samples) will be indicated on a site map. The workplan will also summarize historical data, identify data gaps, and outline the statistical criteria against which the suitability of the parcel(s) for residential reuse will be evaluated. The workplan will be provided to DTSC prior to implementation of the investigation to ensure that all issues of concern to have been addressed.

ERM will also develop a site-specific health and safety plan (HASP) for implementation during the proposed field activities. The HASP will address all potential physical and chemical hazards associated with the proposed work, and will be reviewed and approved by a Certified Industrial Hygienist prior to implementation. All ERM personnel and other interested parties (e.g., City, Navy, and/or DTSC representatives) who will be in the work area during implementation of the investigation will be required to review and adhere to the HASP.

### *Permitting*

ERM will apply for and obtain the necessary drilling permit from Alameda County prior to implementing the work. All conditions of Alameda County's permits will be met during implementation of the field investigation.

### *Site/Utilities Clearance*

Prior to implementing field investigation activities, it will be necessary to ensure that we have access through the City and ProLogis to all proposed sampling locations and to clear those locations for potential underground utilities. ERM will also require access to Building 4 in order to collect samples at approximately 12 to 25 locations. ERM will make every effort to minimize disruption to ongoing business activities at that location.

As required by law, ERM will make appropriate notification to Underground Services Alert. In addition, we will coordinate with the Navy and its caretaker to facilitate review of any available as-built drawings that may indicate the locations of underground utilities. Finally, we will contract with a licensed underground utilities surveyor, who will clear each of the proposed locations. As necessary, we will move locations to avoid impacting underground utilities.

### *Field Investigation*

Based on our knowledge of site conditions, we anticipate that using direct-push technology is the best approach to collecting discrete-depth soil samples and minimizing the generation of investigation derived wastes (IDW). ERM may make use of backhoe-excavated locations to collect depth-discrete (sidewall) samples where access by the direct-push rig is not possible.

Based on the discussion above, we envision implementing the field investigation as follows:

- 110 locations (approximately 140-foot grid centers), with samples collected at a maximum of three depths (0-0.5 feet, 1.5-2.0 feet, and 3.5-4.0 feet bgs);

Some of the proposed sampling locations are within the foundations of existing structures (e.g., Building 4 and the steam plant) that will require coring the concrete to create access for direct-push investigation. ERM has assumed coring concrete up to 1 foot thick at a maximum of 40 locations.

The proposed sampling protocol involves collecting discrete soil samples from up to three depths at each location. We will use proposed final grade elevations provided by ProLogis to make a determination as to the number of samples to be collected at each location (two versus three), to the extent possible.

Samples will be preserved in accordance with standard practices and transferred under appropriate chain-of-custody documentation to a State-certified analytical laboratory. Each sample will be analyzed for PAHs with selective ion monitoring (SIM) using United States Environmental Protection Agency (USEPA) Method 8270/8310 to ensure method detection limits that are low enough to be compared to the B(a)PE standards currently being used by DTSC. Similarly, samples to be tested for PCBs and cadmium also, will be analyzed using USEPA Methods 8020A and 6010C, respectively, or equal.

During and following completion of the field investigation, ERM will oversee a licensed land surveyor to survey the horizontal and vertical coordinates of sampling locations.

### *Data Analysis and Reporting*

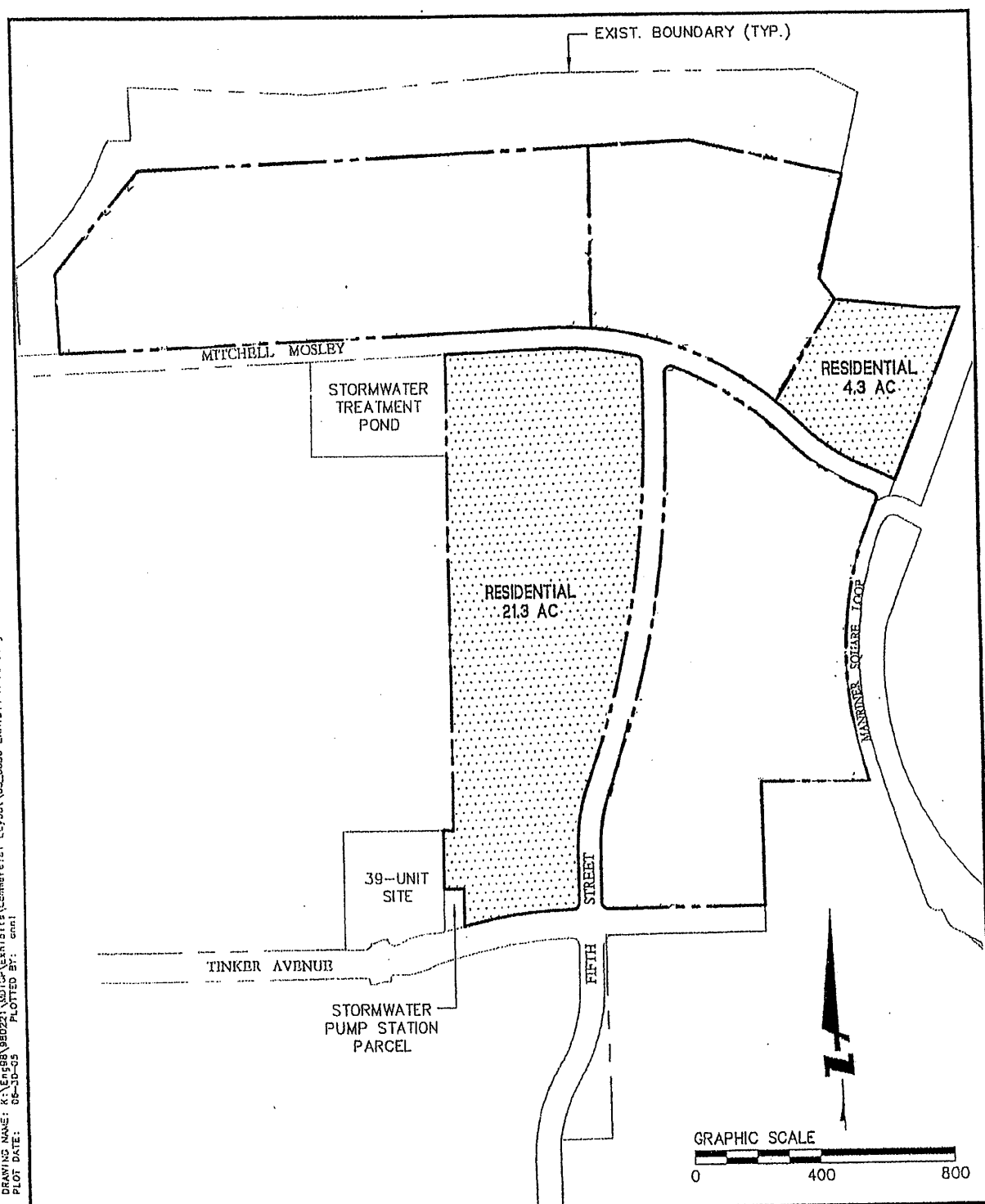
Upon completing the field investigation and receiving all sampling data from the laboratory, ERM will prepare a report of findings suitable for submittal to DTSC and incorporation into the public record as part of DTSC's decision documentation. The report will include the following information:

- A written summary of field activities and findings;
- Tabular documentation of analytical results, including a conversion to B(a)PE and a comparison of those results to the criteria to be coordinated with DTSC;
- Field data, including boring logs, field notes, and permit documentation, as appropriate (as appendices); and
- Conclusions appropriate to investigation findings, and recommendations for follow-on (remedial) activities, as necessary and appropriate.

ERM will submit a draft version to the City for review and comment, and upon receiving the City's comments we will finalize the document for submittal to DTSC and the Navy. We anticipate having a meeting with the City at the time the preliminary data become available, for the purpose of walking through the preliminary findings and conclusions, then preparing the draft pursuant to those discussions.

### *Waste Disposal*

ERM anticipates generating a limited amount of IDW (up to a maximum of ten 55-gallon drums), consisting primarily of soil cuttings and decontamination rinsate. These materials will be maintained in appropriately labeled drums at the site pending completion of laboratory analytical work. We will then profile the waste materials and have them removed and disposed of in accordance with applicable regulations.



4780 Chabot Dr., Suite 104  
Pleasanton, CA 94588-3323  
925/396-7700  
925/396-7799 (Fax)

## EXHIBIT A

Drawn APL  
Job No. 980221-11

Checked APL  
Date 6/30/05

Approved DGS  
Sheet 1 of 1



**PROPOSED BUDGET AND SCHEDULE**

ERM will complete the proposed scope of work on a time-and-materials, not-to-exceed basis, consistent with the costs summarized in the following table and in accordance with the terms and conditions set forth in the Consultant Agreement executed between the Community Improvement Commission of the City of Alameda and ERM.

The costs presented in the table, which total \$194,320, include all ERM labor and expenses, and subcontractor costs (i.e., utility clearance, drilling, laboratory, and survey contractors) and a 25% contingency.

Task/Activity	Cost
Historical Data Compilation	\$ 3,365
Strategy Development	\$ 8,910
Workplan/HASP Development	\$ 3,685
Permitting/Site Clearance	\$ 10,825
Field Investigation/ Lab Analysis*	\$ 106,875
Data Analysis/ Reporting	\$ 17,845
Waste Disposal	\$ 3,950
25% Contingency	\$ 38,865
<b>Total Cost</b>	<b>\$ 194,320</b>

\* 110 sampling locations, with a maximum of three vertical samples

Only actual costs related to the project will be billed.

Pending the CIC's authorization to proceed, ERM will begin preparing the workplan. Implementation of the field investigation is scheduled for the week of 28 November 2005. We will coordinate a schedule for providing a report of findings to the City and DTSC upon confirming the scope of field activities.

**UNAPPROVED MINUTES**  
**MINUTES OF THE SPECIAL CITY COUNCIL MEETING**  
**TUESDAY- -NOVEMBER 1, 2005- -6:05 P.M.**

Mayor Johnson convened the special meeting at 6:05 p.m.

Roll Call - Present: Councilmembers Daysog, deHaan, Gilmore, Matarrese, and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(05-\_\_\_\_) Conference with Labor Negotiators - Agency Negotiators: Craig Jory and Human Resources Director; Employee Organizations: International Brotherhood of Electrical Workers and Management and Confidential Employees Association.

(05-\_\_\_\_) Conference with Legal Counsel - Existing litigation; Name of case: Citizens for a Megaplex-Free Alameda v. City of Alameda, et al.

(05-\_\_\_\_) Conference with Labor Negotiators - Agency Negotiators: Marie Gilmore and Frank Matarrese; Employee: City Attorney.

Following the Closed Session, the Special Meeting was reconvened and Mayor Johnson announced that regarding the International Brotherhood of Electrical Workers and Management and Confidential Employees Association, the Council gave instructions to labor negotiators; regarding Existing litigation, the Council was briefed by the City Attorney; regarding the City Attorney, the Council gave instruction to the negotiators.

Adjournment

There being no further business, Mayor Johnson adjourned the Special Meeting at 7:35 p.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

**UNAPPROVED MINUTES**  
MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND  
COMMUNITY IMPROVEMENT COMMISSION MEETING  
TUESDAY - - - NOVEMBER 1, 2005 - - - 7:25 P.M.

Mayor/Chair Johnson convened the Special Joint Meeting at 7:45 p.m.  
Councilmember/Commissioner Matarrese led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers/Commissioners Daysog,  
deHaan, Gilmore, Matarrese, and  
Mayor/Chair Johnson - 5.

Absent: None.

CONSENT CALENDAR

Councilmember/Commissioner Matarrese moved approval of the Consent Calendar.

Vice Mayor/Commissioner Gilmore seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*05 ) Minutes of the Special Joint City Council and Community Improvement Commission and Special Community Improvement Commission meetings held on October 18, 2005. Approved.

(\*05- ) Recommendation to accept the Quarterly Financial Report for the period ending September 30, 2005 and approve the supplemental appropriations. Accepted.

ADJOURNMENT

There being no further business, Mayor/Chair Johnson adjourned the Special Joint Meeting at 7:46 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk  
Secretary, Community Improvement  
Commission

The agenda for this meeting was posted in accordance with the Brown Act.

**UNAPPROVED MINUTES**  
**MINUTES OF THE REGULAR CITY COUNCIL MEETING**  
**TUESDAY - - - -NOVEMBER 1, 2005 - - - - 7:30 P.M.**

Mayor Johnson convened the regular meeting at 7:46 p.m.

ROLL CALL - Present: Councilmembers Daysog, deHaan, Gilmore,  
Matarrese, and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

(05- ) Councilmember deHaan stated that he thought the Public Hearing to accept new, revised preliminary designs for the Cineplex and a 352-space parking structure [paragraph no. ] and the Public Hearing to consider an Appeal of the Planning Board's approval of Use Permits [paragraph no. ] should be heard in reverse order.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(05- ) Proclamation honoring the developers of the Marketplace, and declaring November 1, 2005 as Donna Layburn, Paul Hossack, and Gerald Mackey Appreciation Day.

Mayor Johnson read and presented the proclamation to Donna Layburn and Gerald Mackey, developers of the Marketplace.

Donna Layburn thanked the Council for the proclamation and support.

Councilmember Matarrese thanked the developers for perservering.

Councilmember deHaan stated that he appreciates moving forward with the developer's vision.

Vice Mayor Gilmore stated that the Marketplace is a great place to shop; tenants have created a wonderful synergy; owners are friendly, outgoing, and helpful.

Valerie Ruma, Alameda, stated that she is a fan of the marketplace.

(05- ) Library update.

The Project Manager gave a brief project update.

Mayor Johnson requested that the Project Manager alert the Council on available options if the project is still under budget.

Councilmember deHaan inquired whether items removed through value engineering were prioritized, to which the Project Manager responded in the negative.

Councilmember deHaan requested that items removed through value engineering be prioritized by cost and gain.

Councilmember Matarrese stated direction was given to review longevity versus spending; analysis should be given to saving \$26,000 today and spending \$60,000 for restroom rehabilitation in the future because durable countertops were not installed.

The Project Manager stated there was significant discussion on the countertop issues; countertop prices would be provided to the Council.

Councilmember Matarrese requested a report on long-term projections for replacement costs.

#### CONSENT CALENDAR

Councilmember deHaan moved approval of the Consent Calendar.

Vice Mayor Gilmore seconded the motion, which carried by unanimous voice vote - 5.

[Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(\*05- ) Minutes of the Special and Regular City Council Meetings held on October 18, 2005. Approved.

(\*05 ) Ratified bills in the amount of \$2,861,380.74.

(\*05- ) Recommendation to accept the Quarterly Investment Report for the period ending September 30, 2005. Accepted.

(\*05 ) Recommendation to authorize the City Manager to pay Bay Ship & Yacht Company \$134,598.19 for facility upgrades to the Main Street Ferry Terminal. Accepted.

(\*05- ) Resolution No. 13906, "Amending Resolution No. 9460 to Reflect Current Positions and Entities to be Included in the City of Alameda's Conflict of Interest Code and Rescinding Resolution No. 13726." Adopted.

#### REGULAR AGENDA ITEMS

(05- ) Public Hearing to accept new, revised preliminary designs for the cineplex and a 352-space parking structure at the corner of Oak Street and Central Avenue, within the C-C T (Community Commercial Theater) Zoning District.

The Development Services Director gave a brief presentation on the project.

Mr. Towey with Komorous-Towey Architects gave a Power Point presentation.

Councilmember deHaan stated there are seven parking levels; inquired whether the elevator tower reached up to the seventh level.

The Architect responded in the negative; stated the previous and current designs are the same; the seventh level was extended to make up for some lost spaces.

Councilmember deHaan inquired whether the highest peak would be the elevator tower and whether the roof level was now 70 feet.

The Architect responded that the top of the elevator tower was the highest point.

Councilmember deHaan stated that the canopies look industrial; inquired whether other options were considered.

The Architect responded that the industrial nature of the canopies could be valid, depending on execution; the historical period being evaluated had very flat and thin awnings; many were roll out awnings; the intention is to keep the metal very flat and thin as opposed to having a sloping top; the corrugated metal would not be visible; the canopies could be executed to look finished.

Councilmember deHaan inquired whether there was another design which could pull back the 20 inch protrusion.

The Architect responded that the previous design studied what would occur if the protrusion had to be pulled back; twenty five seats and a few feet off one of the screen's sides would be lost; his charge was to work with the approved floor plans.

Mayor Johnson opened the public portion of the hearing.

Proponents (In favor of the design): Pauline Kelley, Alameda; Pete Halberstadt, Alameda (read a list of 33 people in favor of the

design); Chuck Millar, Alameda; Marilyn Schumacher, Alameda; Sherri Stieg, Alameda; Harry Hartman, Alameda; Michael John Torrey, Alameda.

Opponents (Not in favor of the design): Anthony Mark, Oakland; Birgitt Evans, Alameda Architectural Preservation Society (AAPS); Jack Boeger, Alameda; Christopher Buckley, AAPS; Richard Rutter, AAPS; Irene Dieter, Alameda (submitted comments); Valerie Ruma, Alameda; Victoria Ashley, Alameda; Vern Marsh, Alameda; Robert Gavrich, Alameda (submitted comments); Jay Levine, Alameda (submitted comments); Jon Spangler, Alameda; Ron Schaeffer, CMFA (submitted comments); Kevin Fredrick, Alameda; David Miller, Alameda; Dave Kerwin, Alameda.

There be no further speakers, Mayor Johnson closed the public portion of the hearing.

Councilmember Daysog stated that the project design was light years ahead of the previous design.

Councilmember Matarrese concurred with Councilmember Daysog; stated Council direction was followed to make the façade less modern, match the architectural character of the existing theater, and accommodate the project; the project should be accepted.

Councilmember deHaan stated that he is comfortable with the design; the design addresses some of the AAPS's concerns and project continuity; he appreciates that time was taken to review the design.

Vice Mayor Gilmore stated that she is particularly pleased with the parking garage; the staff and Architect did an excellent job of following Council direction; thanked AAPS for input; stated the parking garage is an excellent design.

Mayor Johnson stated that she appreciates the staff's and Architect's work; improvements are outstanding; the project should move forward.

Councilmember deHaan stated he is concerned with the 70-foot high parking structure, which would be even with the marquee; stated Mariner Square's new boat storage facility is 50-feet tall; Alameda Point Hangers 41 and 39 are 45-feet tall; massing is a concern.

Councilmember Daysog stated that he voted against the matter several months ago on very narrow grounds, which still stand; he is concerned that the City is not getting the best business deal out of the project; the rent on the historic theater amounts to 30

cents per square foot when the market rate is around \$1.50 to \$1.80 per square foot; charging 60 cents would amount to millions of dollars over time; the Council cannot treat fiscal issues lightly; there is pent up demand for a movie theater in Alameda; he is concerned with project redevelopment; a lot of public dollars are being put into the project; \$9 million is being put into the historic theater and more is being put into the parking garage and cineplex; public investment would be paid back through future tax increments; redevelopment needs to add value and not just recoup investments; projects need to generate sales tax, more property taxes, and more revenues; investments are being made that are not just redevelopment dollars, but dollars that previously went to other taxing public entities; the promise of redevelopment is not just to revitalize blighted areas but also to pay back entities; there would not be associated redevelopment costs if there was a better business deal; the project is more of a street and sidewalk public works project, where recouping of public funds is not expected; he is glad that the historic theater would be restored; he is concerned with getting the best possible rent for the City; a beautiful project should never trump bottomline considerations; he will stick to his guns regarding the fiscal aspects of the project.

Mayor Johnson stated that the Council voted on the business plan in May; Councilmember Daysog voted for the business plan, which included the square footage rental; the historic Alameda theater project is not intended to be strictly a business deal, but also a historic renovation project; a new cineplex could be built for less money; the historic theater is being significantly restored; she would hope that a second and third phase restoration could be done; saving the building first is necessary.

Councilmember Daysog stated that he voted for the Disposition and Development Agreement (DDA) in May; a DDA is never consummated until all the land use approvals are put in place per the Municipal Code; financial feasibility was referenced when the Downtown Vision Plan was adopted.

Councilmember Matarrese moved approval of the revised design of the cineplex and the parking structure.

Vice Mayor Gilmore seconded the motion, which carried by the following voice vote: Ayes: Councilmembers Gilmore and Matarrese and Mayor Johnson - 3. Noes: Councilmember Daysog - 1. Abstentions: Councilmember deHaan - 1.

(05- ) Public Hearing to consider an Appeal of the Planning Board's approval of Use Permits for: a) multi-screen theatre, live theatre, and public assembly use in the C-C T district pursuant to



AMC Subsection 30-4.22; b) fifty eight (58') foot building height for the Cineplex pursuant to AMC Subsection 30-4.9A.g.2; and c) extended hours of operation until 3:00 a.m. for the theatre pursuant to AMC Subsection 30-4.9A.c.1(a) for up to 24 days per year. The site is located at 2305 -2317 Central Avenue, within the C-C T (Community Commercial Theatre Combining) District. Applicants: Kyle Conner, Alameda Entertainment Associates, LP. Appellants: Ani Dimusheva and Robert Gavrich; and

(05- A) Resolution No. 13907, "Upholding the Planning Board's Approval of Use Permit UP05-0018 for: A) Multi-Screen Theater, Live Theater, and Public Assembly Use in the C-C T District Pursuant to AMC Subsection 30-4.22; B) Fifty Eight Foot (58') Building Height for the Cineplex Pursuant to AMC Subsection 30-4.9A. G-2; and (C) Extended Hours of Operation until 3:00 A.M. for 24 Days per Year for the Theater Pursuant to AMC Subsection 30-4.9A.C.1(A) for Occasional Special Events and Screenings, with a condition that an analysis of late-night screening be conducted after 12 events or a year, whichever comes first." Adopted.

The Supervising Planner gave a brief presentation on the project.

Mayor Johnson opened the public portion of the hearing.

Opponents (Not in favor of the project): Jenny Curtis; Citizens for a Megaplex-Free Alameda (CMFA) (submitted comments); Valerie Ruma, CMFA (submitted comments); Ani Dimusheva, Appellant; Alice Ray, CMFA (submitted comments); Kristi Koenen, CMFA; Andy Crockett, CMFA (submitted comments); Vern Marsh, CMFA; Phyllis Greenwood, CMFA; Lew Brentano, CMFA (submitted comments); Joe Meylor, CMFA; Robert Gavrich, Appellant (submitted comments); Paula Rainey, CMFA; Kevin Fredrick, CMFA; Russell Kirk, CMFA (submitted comments); Richard McClure II, Alameda (not present); Arthur Lipow, Alameda (submitted letter); Deborah Overfield; David Kirwin, Alameda; David Miller, Alameda; Jon Spangler, Alameda; Gary McAffe, Alameda; Mark Dombeck, Alameda; Ana Rojas, Alameda; Clyde Serda, Alameda (submitted comments); Glen Vivion; Susan Battaglia, Alameda; Rosemary McNally, Alameda (submitted comments); William F. Assali, Alameda (not present); Irene Dieter, Alameda.

Proponents (In favor of the project): Rich Warner, Alameda; Gail Wetzork, Alameda; Marilyn Ezzy Ashcraft, Alameda; Cathy Leong, Alameda; Kevin Leong, Alameda; Fritz Mayer, Alameda; Bruce Reeves, Alameda (not present); Harvey Brook, Alameda; Lars Hanson, Park Street Business Association (PSBA); Barbara Marchand, Marchand Associates; Sherri Hansell, Alameda; Mary Amen; Debbie George, Alameda; Lowell Schneider, (PSBA); Blake Brydon, Alameda; Barry Finkelstein, Alameda; Mike Corbitt, Chamber of Commerce Board;

Chuck Carlise; Alameda; Marilyn Schumacher, Alameda (not present); Robert Doumitt, Alameda (not present); Robert McKean, Alameda; Sherri Stieg, WABA; Walt Jacobs, Chamber of Commerce (not present); Kyle Conner, Applicant; Harry Hartman, Alameda (not present); Nancy Brandt, Alameda; Michael Torrey, Alameda; Frank George, Alameda; Melody Marr, Chamber of Commerce (read list of 14 people in favor of the project); Duane Watson, Lee Auto Supply.

There being no further speakers, Mayor Johnson closed the public portion of the hearing.

Councilmember Daysog stated that people can always agree to disagree but should not be disagreeable; Councilmembers he has worked with since 1996 have all had the interest of the community in mind; the community must move forward regardless of tonight's decision; he has always focused on the dollars and cents of a project; he has reservations with the proposed alternative; other cities are doing other things; El Cerrito has purchased a historic theater and is contracting with a company to run the theater; Orinda is working with a non-profit group to preserve its historic theater; he will support the Appeal because of the dollars and cents issue; 30 cents per square foot would generate \$3 million versus 60 cents per square foot generating \$6 million over the life of a twenty year project; stated he respects the other Councilmembers' opinions.

Councilmember deHaan stated seven downtown parking sights were reviewed in October 2002; the sites were narrowed down to three: the Elk's Club, Longs, and Bank of America; the report showing that Video Maniacs was one of the sites is in error; inquired when the Video Maniacs site came into play.

The Development Services Director responded that Video Maniacs was considered as a site in a parking analysis prior to October 2002; the opportunity was shifted to Long's; there was additional dialogue combining the two sites; the shift went back to the Video Maniacs site when Long's no longer wanted to work with the City.

Councilmember deHaan stated that Video Maniacs was identified as a parking structure before the cineplex review; inquired whether five screens were ever considered.

The Development Services Director responded there were a number of proposals that had a combination of multiple screens; five screens in the historic theater were never considered.

Councilmember deHaan stated that he was referring to five screens in the cineplex.

The Development Services Director stated that product and screen size and number of seats were discussed; internal evaluations included reviewing something smaller.

Councilmember deHaan inquired whether five screens were recommended.

The Development Services Director responded that staff concluded that five screens would not be viable as competition continued to increase in the area.

Councilmember deHaan inquired whether the viability of a five-screen theater was understood.

The Development Services Director responded different product and configurations were reviewed.

Councilmember deHaan inquired whether five screens were considered and recommended by staff.

The Development Services Director responded moving forward on the matter was considered.

Councilmember deHaan stated that Page 7 of the staff report addresses parking garage availability; the bottom line notes that the parking garage and available parking would still have an extra capacity of about 335, the day after the parking structure was built; inquired whether there was a change in October 2005.

The Development Services Director responded in the affirmative.

Councilmember deHaan stated that Page 28 of the study notes there would be additional parking; he is concerned about using off-street parking; inquired whether off-street private parking could be used.

The Development Services Director responded that the referenced study includes the Library; the studies are not comparable; there was some accommodation for off-street parking within the calculation of the use of the Library; off-street parking has not been calculated for the parking structure, cineplex or historic theater.

Councilmember deHaan inquired why private parking was included.

The Development Services Director responded there are a number of private parking lots that are not owned by the City, such as the Bank of America lot that make up part of the mix; the parking lots

become part of the available population when office workers go home; parking supply is not just public parking.

Councilmember deHaan stated there is no entitlement to private parking.

\*\*\*

Councilmember Daysog moved that the Regular Meeting be continued to past midnight.

\*\*\*

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

Councilmember deHaan inquired whether private parking could be used if there was an agreement with the owners.

The Development Services Director responded that covenants are not sought from owners for parking access.

Councilmember deHaan stated that a parking structure would not be needed according to information provided in a 2000 study; the study noted that 204 spaces were available on Saturday evenings; inquired how impacts from the Masonic Temple, high school, Kaufman Auditorium and Elks Club were calculated.

The Development Services Director responded that the analysis did not assume anything other than normal activity; seasonable events overwork a parking supply and change the normal scenario; the analysis reviews typical peak times and does not focus on the unusual.

Councilmember deHaan inquired why the 70-foot parking structure was not included in the September 29, 2005 staff report.

The Development Services Director responded the report was prior to the new project.

Councilmember deHaan inquired whether the 70-foot parking structure was equivalent to the Alameda Theater sign and the Twin Tower spiral.

The Development Services Director responded the 70-foot parking structure was the interior of the mechanical system elevator penthouse on the parking structure only; stated the Oak Street façade of the parking structure has now dropped to 48 feet; the final ramp roof of the sixth story goes up to just below 70 feet.

Councilmember deHaan inquired whether there were always seven

levels to which the Development Services Director responded the sixth story roof parking was always in place.

Councilmember deHaan stated the setbacks were done well; the cost per square foot increases with higher levels; inquired whether the soil conditions have been reviewed.

The Development Services Director responded that the site has sandy soil.

The Revdevelopment Manager stated that a professional geotechnical consultant prepared a soil report; the loose sand would need to be removed; compacted, new soil would have to be brought in or the grade below could be used to add some additional spaces to make up for the setback.

Councilmember deHaan inquired whether exterior architectural treatment would add to the cost.

The Development Services Director responded there are some cost savings with the revised design; the goal was to have the parking garage structure cost under or at budget; removing the brick was a savings; providing long, side openings would save on ventilation.

Councilmember deHaan inquired whether there was a cost estimate for the parking structure.

The Development Services Director responded that there was a ballpark estimate from the Architect; the Architect feels the project was close, if not under budget; removing ventilation and sprinkling would save money.

Councilmember deHaan stated the October 2002 cost estimate for 269 spaces was \$5.4 million.

The Development Services stated the estimate was the cost per parking space without land acquisition, relocation, and all soft costs for design and engineering; hard construction costs per space was approximately \$18,000 to \$19,000.

Councilmember deHaan stated the report shows a cost of \$16,000 per space a few years ago.

The Development Services Director stated that San Jose had a 1999 cost estimate for \$15,000 per space which ended up costing \$34,000 per space by the time the structure was built four years later; costs are difficult to estimate without construction documents.

Councilmember deHaan inquired whether the cost estimate was \$16 million in 2002-2003.

The Development Services Director responded that \$10.5 was bonded for the parking structure and \$7.5 million was bonded for the historic theater.

Councilmember deHaan stated the November 2004 estimate was \$24.7 million and now there was an estimate of \$26.8 million.

The Development Services Director stated that the construction contingency was gone; adding a 15% construction contingency was requested for the historic theater.

Councilmember deHaan inquired whether \$28 million would consume all the dollars for the project, to which the Development Services Director responded very close.

Councilmember deHaan stated that the project might have to be value engineered.

The Development Services Director responded that there is no place to value engineer the historic theater.

Councilmember Matarrese requested a recap of the Planning Board conditions regarding 3:00 am late night screenings.

The Development Services Director stated that the two primary conditions are: 1) the operator must submit an operation plan which the Police Department and the City reviews for appropriateness, and 2) the Use Permit would be reviewed by the Planning Board (after a year) to decide whether additional conditions are needed.

The Redevelopment Manager stated that the 3:00 am use is restricted to 24 times per year in the bottom four screens.

Councilmember Matarrese inquired whether there would only be first-run movies at the late night screenings.

The Development Services Director responded in the affirmative; stated the requirement was part of the Development Agreement.

Councilmember deHaan inquired whether there would be contract Police overtime when the theater is in operation past midnight, to which the Development Services Director responded in the affirmative.

Councilmember deHaan inquired whether the Police Department would

be notified a week before the special event.

The Development Services Director responded the Police Department would be notified a couple of weeks before the special event.

Councilmember deHaan inquired whether special showings would be in the bigger or smaller theater.

The Development Services Director responded special showings could be a combination of both; the intent is to have all the big blockbusters start in the bigger theater.

Councilmember deHaan inquired whether there was a caveat to review the Use Permit after a year, to which the Development Services Director responded in the affirmative.

Councilmember deHaan inquired how often the Developer ran late night movies.

The Developer responded that the new Harry Potter movie was being released Thursday at midnight; Star Wars and Serenity ran at 12:01 a.m.; approximately six movies have been shown past midnight this year.

Councilmember deHaan inquired whether lowering the number of late night movies would be acceptable.

Mayor Johnson stated that the Planning Board had a very thorough discussion on midnight showings; there should be flexibility.

Councilmember deHaan stated there was no Planning Board resolution regarding cueing.

The Development Services Director stated she spoke to the Police Chief regarding the matter and concluded that nobody believes cueing would occur.

The City Attorney stated that there is a section in the Resolution regarding cueing; there are five conditions on blockbuster releases and special venues.

Councilmember deHaan inquired whether there would be contract overtime for cueing, to which the Development Services Director responded in the affirmative.

Councilmember deHaan inquired why a Public Works and Police Department review was requested.

The Development Services Director responded the Public Works review was requested because of street and sidewalk issues; the Police Department review was requested for insight; special requests would be discussed among all department heads.

Vice Mayor Gilmore inquired whether the zoning district allows up to 60 feet with the granting of the Use Permit.

The Development Services Director responded in the affirmative; stated the parking structure is exempt.

Vice Mayor Gilmore inquired whether only the cineplex was being discussed, to which the Development Services Director responded in the affirmative.

Councilmember Matarrese stated that comments at the Planning Board meeting and tonight's meeting are no different; the Planning Board took diligence in reviewing the Municipal Code for the cineplex height requirements and did a credible job in reviewing extending hours past midnight; stated he has no problem as long as the hours are monitored.

Councilmember Matarrese moved adoption of the resolution upholding the Planning Board's approval with a condition that there be a monthly analysis of late-night screenings and a review after 12 events or a year, whichever comes first.

The Development Services Director stated that there would be a master review after 12 events.

Mayor Johnson inquired whether the Planning Board would review the matter, to which Councilmember Matarrese responded in the affirmative.

Vice Mayor Gilmore seconded the motion, which carried by the following voice vote: Ayes - Vice Mayor Gilmore, Councilmember Matarrese, and Mayor Johnson - 3. Noes: Councilmember Daysog - 1. Abstentions: Councilmember deHaan - 1.

#### ORAL COMMUNICATIONS, NON-AGENDA

None.

#### COUNCIL COMMUNICATIONS

(05- ) Status of the Infrastructure Improvement Project/Plan, including scope, issues, timelines and questions.



Councilmember Daysog requested that the Council forward infrastructure plan ideas to the staff prior to the matter being on the agenda in December; suggested community oversight be established; requested future discussions on how streets are prioritized for crack sealing treatment.

Mayor Johnson stated she would not want to have the infrastructure report delayed in order to review options; the Council should review what other cities do; she was very disappointed when the Council learned that the infrastructure spending was cut nearly 50%, which made making the reserve appear to be false; stated the reserve is not false; deferred maintenance occurred; stated there is crack sealing all over the City; a decision was made not to do crack sealing; the Council needs more information on what is prioritized and the affects of the decisions; a long catch-up game is required due to the cuts.

Councilmember Daysog requested some level of discussion about an oversight committee that would inform the Council on issues.

Mayor Johnson stated there should be a discussion on available options and goals.

Councilmember deHaan inquired when the infrastructure report would be brought to the Council, to which the City Manager responded December.

Councilmember deHaan inquired whether park deterioration would be included in the report.

The City Manager responded the report includes sidewalks, streets, street tree planning, field maintenance, facility maintenance, sewers, and storm drains.

(05- ) Vice Mayor Gilmore stated that she attended the Association of Bay Area Governments (ABAG) Conference in Oakland last week; the main topic of conversation was affordable housing; there was a strong recognition that individuals are being priced out of the Bay Area market; the 20-30 year old group stated housing was a real problem; unfortunately the language at the conference was harsh on both sides and was not a good coming together to exchange ideas.

(05- ) Councilmember deHaan stated that the Chamber of Commerce had a briefing on the Ninth Avenue project in conjunction with the Port of Oakland for 3,500 to 4,000 homes; there is continual build out on the other side of the Estuary; the City is in litigation which restricts fulfilling commitments; expressing the City's

concerns regarding constraints are important.

Councilmember Daysog stated that he previously requested a summary report on Oakland developments that need to be reviewed; requested a follow up to his request.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the regular meeting at 12:37 a.m.

Respectfully submitted,

Lara Weisiger  
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

November 10, 2005

Honorable Mayor and Councilmembers:

This is to certify that the claims listed on the check register and shown below have been approved by the proper officials and, in my opinion, represent fair and just charges against the City in accordance with their respective amounts as indicated thereon.

<u>Check Numbers</u>	<u>Amount</u>
142201 - 142603	2,251,671.49
EFT 150	25,610.00
EFT 151	60,000.00
E14172 - E14290	71,949.34

Void Checks:

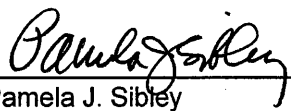
140901	(1,143.92)
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GRAND TOTAL

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2,408,086.91

Respectfully submitted,

  
\_\_\_\_\_  
Pamela J. Sibley

## **CITY OF ALAMEDA**

### **Memorandum**

To: Honorable Mayor and  
Councilmembers

From: Debra Kurita  
City Manager

Date: November 1, 2005

Re: Recommendation to Approve the Purchase of Three Marked Patrol Vehicles  
from Film Vehicle Services in the Amount of \$80,493.

### **BACKGROUND**

On September 20, 2005, the City Council adopted specifications and authorized calling for bids for the replacement of three marked patrol vehicles.

### **DISCUSSION/ANALYSIS**

The City of Alameda purchasing policy required utilization of a competitive bid process for this purchase. Therefore, a notice was published in the Alameda Journal, which serves as the official newspaper for legal advertising for the City and was mailed to a list of interested suppliers. The formal bid process closed on October 21, 2005, with Film Vehicle Services as the sole bidder with a price of \$26,831.00 per vehicle, which includes tax and delivery.

### **MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE**

The proposed action will not affect the Alameda Municipal Code.

### **BUDGET CONSIDERATION/FINANCIAL IMPACT**

The total cost for three patrol vehicles is \$80,493.00. There are sufficient funds in the 2005 / 2006 equipment replacement fund for this purchase.

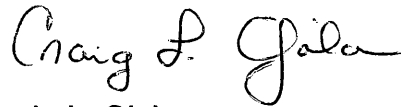
Honorable Mayor and  
Councilmembers

November 1, 2005  
Page Two

**RECOMMENDATION**

Approve the purchase of three marked patrol vehicles from Film Vehicle Services in the amount of \$80,493.

Respectfully submitted,

A handwritten signature in black ink, reading "Craig L. Ojala". The signature is written in a cursive style with a large, stylized "C" and "O".

Craig L. Ojala  
Interim Chief of Police

DK/CLO/wjs

# City of Alameda

November 9, 2005

To: Honorable Mayor and Councilmembers

From: Debra Kurita  
City Manager

Subject: Recommendation to Approve an Agreement with Holland and Knight, LLP  
in the amount of \$96,000 for Federal Legislative Advocacy Services

## Background

On February 1, 2003, the Alameda Reuse and Redevelopment Authority (ARRA) entered into an agreement with Holland & Knight, LLP to provide federal legislative advocacy services. In June 2004, the City Manager retained the services of Holland and Knight to provide federal legislative and regulatory advocacy services for the entire City organization. On July 19, 2005, the City Council extended the agreement for four additional months to allow the firm to further demonstrate its effectiveness in securing federal funds.

## Discussion/Analysis

In 2004, Holland and Knight's advocacy efforts resulted in an appropriation of \$465,000 in the Federal Transportation-Treasury Appropriations bill to fund transportation planning for Alameda Point. In July 2005, their efforts resulted in another Congressional appropriation of \$1.672 million to plan, design and construct an intermodal transportation facility at Alameda Point. The project was also designated in federal legislation as a "New Starts" project which makes it eligible for capital funding in future federal budgets. More information regarding Holland and Knight's federal fiscal year 2006 advocacy efforts is attached. Currently, Holland & Knight staff is assisting the City Manager's Office in preparing appropriations requests for the federal fiscal year 2007.

## Budget Consideration/Financial Impact

The cost to retain Holland and Knight to provide federal legislative and regulatory advocacy is \$96,000 for a twelve month period beginning November 20, 2005. This is a 20% reduction in the monthly fee required under the current agreement. A portion of the funding for the new agreement was appropriated by the City Council on November 1, 2005 in the FY 05-06 budget for the City Managers Office. Funds for the remaining

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**11-15-05**

portion of the agreement will be requested in the FY 06-08 financial plan that will be considered by Council in May, 2006.

Municipal Code/Policy Document Cross Reference

This action will not affect the Municipal Code.

Recommendation

Approve an agreement with Holland and Knight, LLP in the amount of \$96,000 for federal legislative advocacy services.

Respectfully submitted,

Debra Kurita  
City Manager

By:

A handwritten signature in black ink, appearing to read 'Christa Johnson', written over the printed name.

Christa Johnson  
Assistant to the City Manager

Attachments

## Memorandum

Date: October 11, 2005

To: Mayor Beverly Johnson, City of  
Alameda  
Debra Kurita, City Manager

From: Richard Gold  
Lynn Cutler  
Julie Adair

Re: Fiscal Year 2006 Federal Advocacy  
Update

## INTRODUCTION

This memorandum outlines our federal advocacy accomplishments and on-going legislative efforts on behalf of the City of Alameda. While the majority of our time is spent advocating for the City's appropriations and TEA-21 reauthorization priorities, we also provide valuable authorization and regulatory services in support of local initiatives. We are in constant contact with the Congressional offices and federal agencies that matter most to the City and over the several years have built a reliable network of support that allows us to help the City with its most pressing needs.

### I. Fiscal Year 2006 Appropriations

#### *A. Status*

Upon return from the August recess, the House and Senate continued their consideration of the outstanding appropriations bills and conference reports in an attempt and meet the 2005 fiscal year end deadline of October 1<sup>st</sup>. However, Congress was unable to meet this goal and instead passed a continuing resolution (CR) that will keep the federal government funded at a combination of last year's enacted funding levels and this year's committee approved funding levels until November 18<sup>th</sup>. Only the Interior and Environment and Legislative Branch appropriations bills have been successfully conferenced and signed into law, and for these reasons were not included in the CR.

It is the intent of Congress to have the remaining appropriations bills completed before the CR expires mid-November, but it remains to be seen whether or not that can be accomplished given the combination of a short timeframe and busy floor schedule.

At present, the following bills are currently being reconciled between the House and Senate versions in conference.

Annapolis • Atlanta • Bethesda • Boston • Bradenton • Chicago • Fort Lauderdale •  
Jacksonville • Lakeland • Los Angeles  
Miami • New York • Northern Virginia • Orlando • Portland • Providence • Rancho Santa  
Fe • Sacramento • St. Petersburg  
San Antonio • San Francisco • Seattle • Tallahassee • Tampa • Washington, D.C. • West  
Palm Beach  
Beijing • Caracas\* • Helsinki\* • Mexico City • Tel Aviv\* • Tokyo • \*Representative  
Office



- Commerce, Justice and Science
- Defense
- Energy & Water

In addition, the Senate has announced plans to start its floor consideration of the Transportation, Treasury and Housing and Urban Development, the Judiciary, District of Columbia (TTHUD) appropriations bill when it returns for a week long October recess on October 17<sup>th</sup>. The Senate expects that floor consideration will last two to three business days.

### ***B. Alameda's Priority Projects***

Of particular interest to the City are the following:

- ***Transportation:*** During conference of the TTHUD appropriations bill all highway and bus projects will be added. Both the House and Senate elected not to earmark these accounts earlier in the process. We continue to work with Congressman Stark and Senators Boxer and Feinstein to ensure that funding for the Park Street Pedestrian Safety Transportation Improvements project and the Citywide Bus Shelter Program receive funding. In fact, Lynn Cutler recently spoke personally with Senator Feinstein about the Park Street project and the Senator conveyed her full support. As mentioned above, the Senate will begin its floor consideration of this bill during the week of October 17<sup>th</sup>. Once this bill passes the Senate, the House and Senate will meet to reconcile the differences and add project earmarks in conference.
- ***COPS:*** During conference of the House Science, State, Justice and Commerce and Related Agencies (SSJC) bill and the Senate Commerce-Justice-Science (CJS) bill, the Senate will be adding their priorities for COPS earmarks. As you will recall, the House included COPS earmarks in their bill, but Congressman Stark was unable to secure funding for the Wireless LAN Infrastructure or the Alameda Public Safety & Community Crime Resistance Program for SRO and DARE. Upon learning that neither project was included in the House bill we made Senator Boxer aware of the situation. Through a high level conversation between Lynn Cutler and the Senator's Chief of Staff, Karen Olick, the Senator has confirmed that these projects are also a priority for her. Julie Adair has also been in contact with Laurie Saroff, Senior Policy Advisor for the Senator, and Laurie has weighed in with CJS Appropriations subcommittee staff, Paul Carliner. Furthermore, our colleagues Leigha Shaw (a former House appropriations committee staff member) and John Buscher who have close relationships with House and Senate Republican committee staff, are working with committee staff to seek their support as well. As you are aware, this bill is currently in conference.

## **II. Fiscal Year 2007 Appropriations Cycle Preparation**

Over the next several weeks, the City will be assessing their departmental needs for the coming year. These requests will be initially discussed during our upcoming meeting with Debra Kurita, Paul Benoit and Christa Johnson on October 17<sup>th</sup>. Like last year, we will work with the City to prioritize these projects and prepare the necessary white papers and support materials for Congressional meetings in the early part of calendar 2006. In preparation, attached please find a

November 8, 2005

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sample project questionnaire to assist in identifying the specific project need and potential sources of funding.

Ideally, the City's fiscal year 2007 appropriations priorities should be defined by Thanksgiving to allow for time to prepare associated white papers and support materials over the month of December.

### III. SAFETEA-LU

#### ***A. Congressional Passage & Alameda's Priority Projects***

As you are aware, on July 29, 2005 the House and Senate approved H.R. 3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Conference report, officially putting an end to a three-year struggle which spanned two Congresses. Included in the final conference report were the City's top priorities. The intermodal facility project received \$1.672 million for planning, design, and construction and the Fixed Guideway Corridor project received its necessary authorization.

Over the next four fiscal years (FY06-FY09) the City will receive a total of \$1.672 M to plan, design and construct an intermodal facility. The High Priority Projects Bus and Bus Facilities funds will be released as follows:

- FY06: \$384,560
- FY07: \$401,280
- FY08: \$434,720
- FY09: \$451,440

#### ***B. Next Steps for the City***

As we noted in our previous update, now is the time for City staff to begin working with the California Department of Transportation (CalTrans) on the release of these funds. Obtaining these federally earmarked funds from the state is the second part of the process and we can provide strategic assistance along the way. If the City has not already done so, a good place to start is to notify the District Local Assistance Engineer (DLAE) for District 4, which serves the City of Alameda, and make them aware of the funds.

#### ***C. Alameda Point Major Transit Investment Study***

In addition, we look forward to continuing to work with the City as planning and design continues for the Alameda Point Major Transit Investment Study. As you are aware, this project received a New Starts project authorization in SAFETEA-LU under the name "Alameda, California – Fixed Guideway Corridor Project." With the project authorization in hand, the project can start to apply for federal funds to assist with the movement of buses to Oakland, ferries to San Francisco and the construction of the Seaplane Lagoon Transit Center.

#### IV. Eminent Domain

##### ***A. Background***

In response to the U.S. Supreme Court's June 23 decision in *Kelo v. City of New London*, several Members of Congress have introduced legislation to prohibit state and local use of federal funds in any way to exercise eminent domain for economic development purposes. We are aware that this is an important issue for the City and have been in close contact with Christa Johnson, providing updates as appropriate.

We are closely monitoring this issue and are paying special attention to any legislation that would negatively affect the FY04 HUD Section 108 loan for the theatre project. At present there is no legislation before Congress that contains retroactivity. However, this issue does have the attention of Congress and several proposals and moving through the committee process.

##### ***B. Congressional Actions***

Most recently the House Agriculture Committee passed H.R. 3405, the Strengthening the Ownership of Private Property (STOPP) Act of 2005. The STOPP Act would mandate that if a state or local government uses eminent domain for economic development and takes land from one private entity to give to another, then that state or locality will not be eligible to receive federal funding for any projects receiving federal economic development assistance.

While this bill has strong bi-partisan support, the House Judiciary Committee has made it clear that it intends to take the lead on this issue. House Judiciary Chairman Sensenbrenner introduced his eminent domain bill, H.R. 3135, shortly before the August recess. Sensenbrenner's bill, which boasts 134 co-sponsors, is much broader in scope and is therefore likely to be the final legislative vehicle for eminent domain. Congressional aides have signaled that hearings for this bill would likely take place this fall, but also acknowledged that it is unclear how quickly a bill will move because of activity surrounding hurricane Katrina.

In addition, this issue is also getting the attention of the TTHUD Appropriations committee. The House FY06 TTHUD Appropriations committee adopted restrictive language, that if enacted into law, state and local governments could lose authority to use eminent domain in connection with federally assisted projects that promote economic development. It is likely that similar language will be adopted by the Senate during their consideration of the bill next week. Again, these actions are not retroactive, but we continue to closely monitor them.

#### V. Housing

We continue to work with Mike Pucci on issues of importance for the Housing Authority of the City of Alameda (Housing Authority). Over the summer of 2004, we successfully obtained funds in the amount of \$636,161 or 684 unit months from the United States Department of Housing and Urban Development (HUD) for the Housing Authority. These funds successfully

prevented 108 families from losing their Section 8 housing voucher assistance. Without this critical assistance, these families were at risk of becoming homeless.

Currently we are engaged in efforts to seek a waiver from Fannie Mae to allow the Housing Authority to use their risk retention pool instead of requiring the Housing Authority to obtain outside and costly insurance. We also assisting the Housing Authority with continued efforts to secure nearly \$1.2M owed to the housing authority by HUD. HUD has acknowledged their error in this matter; however they have not followed up on their promise to provide the housing authority with recaptured funds from other sources.

## VI. Grants

Recognizing the benefit of grant opportunities to our local government clients, we have developed a weekly grant notification service that focuses on federal grants opportunities of interest to cities and counties. Each day the Federal Register posts grant listings from various federal agencies, but this information can be confusing and hard to use. Our weekly email notifications are specifically geared to capture and summarize only the information of interest to you. Please note that we are pleased to provide this service, however securing federal grants entails a competitive process which is the sole responsibility of interested parties.

The first email notification was sent on September 26<sup>th</sup> and a new email notification will be sent each Monday. Christa Johnson has been identified as the point of contact for these emails. Past notifications have included opportunities within the Department of Homeland Security, Environmental Protection Agency and Corporation for National Community Service to name a few.

## VII. 2006 Congressional Meetings

In the near future, the City should begin to identify possible dates to travel to Washington, DC to meet with Members of Congress and staff to discuss the City's fiscal year 2007 appropriations and legislative priorities. This year, City staff traveled to Washington the week of February 14<sup>th</sup> and spent two days lobbying the Hill and attending political events. This was an ideal time to come and we recommend similar timing for next year. We will assist you in selecting dates to best coordinate your visit with other events of interest and to ensure that you best maximize your time here.

## CONCLUSION

As Congress continues their work on the fiscal year 2006 appropriations process, we monitor these activities every step of the way. We are a critical extension of City staff working to ensure that federal funds and support are benefiting the most pressing needs of the City. Since federal funds do not become available overnight, we are in constant contact with key personal and committee offices to build support and momentum for these projects. We offer our services and resources to assist staff in any way possible and build long lasting partnerships. Should you have any questions or need further information please do not hesitate to contact us.

## **CONSULTANT AGREEMENT**

THIS AGREEMENT, entered into this 15th day of November, 2005, by and between CITY OF ALAMEDA, a municipal corporation (hereinafter referred to as "City"), and \_\_\_Holland & Knight, LLP, a Washington D.C. corporation, whose address is 2099 Pennsylvania Avenue NW, Suite 100, Washington D.C. 20006-6801, hereinafter referred to as "Consultant"), is made with reference to the following:

### **RECITALS:**

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and
- C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- D. City and Consultant desire to enter into an agreement for federal advocacy services upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. **TERM:**

The term of this Agreement shall commence on the 21st day of November, 2005, and shall terminate on the 30th day of November, 2006, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED:**

Consultant shall perform each and every service set forth in Exhibit "A" which is attached hereto and incorporated herein by this reference.

3. **COMPENSATION TO CONSULTANT:**

Consultant shall be compensated for services performed pursuant to this Agreement in the amount set forth in Exhibit "B" which is attached hereto and incorporated herein by this reference. Payment shall be made by checks drawn on the treasury of the City, to be taken from the City Manager's Office fund.

4. **TIME IS OF THE ESSENCE:**

Consultant and City agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE:**

Consultant agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City nor have any contractual relationship with City.

6. **INDEPENDENT PARTIES:**

City and Consultant intend that the relationship between them created by this Agreement is that of employer-independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by City to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from City to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

6. **IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Consultant assumes any and all responsibility for verifying the identity and employment authorization of all of his/her employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Consultant shall indemnify and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Consultant.

7. **NON-DISCRIMINATION:**

Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, Consultant agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Consultant or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

8. **HOLD HARMLESS:**

**Indemnification:**

Consultant shall indemnify, defend, and hold harmless City, its City Council, boards, commissions, officials, employees, and volunteers ("Indemnitees") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("Claims"), arising from or in any manner connected to

Consultant's negligent act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence on behalf of the Consultant, Consultant shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Consultant. However, Consultant shall not be obligated to indemnify Indemnitees from Claims arising from the sole or active negligence or willful misconduct of Indemnitees.

Indemnification For Claims for Professional Liability:

As to Claims for professional liability only, Consultant's obligation to defend Indemnitees (as set forth above) is limited to the extent to which its professional liability insurance policy will provide such defense costs.

9. **INSURANCE:**

On or before the commencement of the term of this Agreement, Consultant shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with paragraphs 10A, B, C, D and E. Such certificates, which do not limit Consultant's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda by certified mail, Attention: Risk Manager." It is agreed that Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City as additional insured shall be submitted with the insurance certificates.

A. **COVERAGE:**

Consultant shall maintain the following insurance coverage:

(1) **Workers' Compensation:**

Statutory coverage as required by the State of California.

(2) **Liability:**

Commercial general liability coverage in the following minimum limits:

Bodily Injury:               \$500,000  
                                      each occurrence  
                                      \$1,000,000  
                                      aggregate - all other

Property Damage:       \$100,000 each occurrence  
                                      \$250,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$1,000,000 will be considered equivalent to the required minimum limits shown above.

(3) **Automotive:**

Comprehensive automotive liability coverage in the following minimum limits:

Bodily Injury: \$500,000 each occurrence

Property Damage: \$100,000 each occurrence

or

Combined Single Limit: \$500,000 each occurrence

(4) **Professional Liability:**

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$1,000,000.

B. **SUBROGATION WAIVER:**

Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her insurance for recovery. Consultant hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or City with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of said Consultant may acquire against City by virtue of the payment of any loss under such insurance.

C. **FAILURE TO SECURE:**

If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. **ADDITIONAL INSURED:**

City, its City Council, boards and commissions, officers, employees and volunteers shall be named as an additional insured under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. **SUFFICIENCY OF INSURANCE:**

The insurance limits required by City are not represented as being sufficient to protect Consultant. Consultant is advised to confer with Consultant's insurance broker to determine adequate coverage for Consultant.

10. **CONFLICT OF INTEREST:**

Consultant warrants that it is not a conflict of interest for Consultant to perform the services required by this Agreement. Consultant may be required to fill out a conflict of interest form if the services provided under this Agreement require Consultant to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.



11. **PROHIBITION AGAINST TRANSFERS:**

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from City under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to City by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

12. **SUBCONTRACTOR APPROVAL:**

Unless prior written consent from City is obtained, only those people and subcontractors whose names and resumes are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance in reasonable conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

13. **PERMITS AND LICENSES:**

Consultant, at his/her sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses including, but not limited to, a City Business License, that may be required in connection with the performance of services hereunder.

14. **REPORTS:**

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of City. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to City the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of City, and all publication rights are reserved to City.

B. All Reports prepared by Consultant may be used by City in execution or implementation of:

- (1) The original Project for which Consultant was hired;
- (2) Completion of the original Project by others;

- (3) Subsequent additions to the original project; and/or
- (4) Other City projects as appropriate.

C. Consultant shall, at such time and in such form as City may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement shall be made available to any individual or organization by Consultant without prior approval by City.

15. **RECORDS:**

Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement.

Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of City or its designees at all proper times, and gives City the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

If supplemental examination or audit of the records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Consultant shall reimburse City for all reasonable costs and expenses associated with the supplemental examination or audit.

16. **NOTICES:**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Consultant to City shall be addressed to City at:

City of Alameda  
2263 Santa Clara Avenue  
Alameda CA 94501  
Attention: Christa Johnson, City Manager's Office

All notices, demands, requests, or approvals from City to Consultant shall be addressed to Consultant at:

Rich Gold  
Holland & Knight, LLP  
2009 Pennsylvania Avenue NW,  
Suite 100  
Washington DC, 20006-6801

17. **TERMINATION:**

In the event Consultant fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Consultant shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) days after receipt by Consultant from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may terminate the Agreement forthwith by giving to the Consultant written notice thereof.

City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Consultant as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

18. **COMPLIANCES:**

Consultant shall comply with all state or federal laws and all ordinances, rules and regulations enacted or issued by City.

19. **CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.)

Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

20. **ADVERTISEMENT:**

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from City to do otherwise.

21. **WAIVER:**

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**22. INTEGRATED CONTRACT:**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Consultant.

**22. INSERTED PROVISIONS:**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

**23. CAPTIONS:**

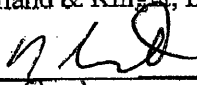
The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

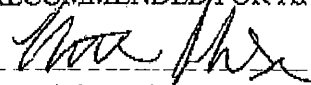
CONSULTANT

CITY OF ALAMEDA  
A Municipal Corporation

Holland &amp; Knight, LLP

By:   
Title: PartnerBy: Debra Kurita  
Title: City Manager

RECOMMENDED FOR APPROVAL:

  
By: Christa Johnson  
Title: Assistant to the City ManagerAPPROVED AS TO FORM:  
City AttorneyBy:   
Title:

## **EXHIBIT A**

### **SCOPE OF SERVICES**

1. In coordination with the City Manager's Office for the City of Alameda, advise the City of Alameda on potential federal funding that the City or the ARRA could seek for implementation of redevelopment at Alameda Point or other locations within the City of Alameda, which may include, but is not limited to, technology improvements for public safety; transportation planning; transit, roadway, and pedestrian improvements; streetscape projects; the renovation of historic municipal buildings such as the Carnegie Building, the Veterans' Building, the "O" Club, gym and pool at Alameda Point; and aid in appropriation of such funding. In addition, Holland & Knight will assist City efforts to restore federal funding for the City's Section 8 and CDBG programs and other housing related issues.
2. Prepare a written report which sets forth, in reasonable detail, the comprehensive lobbying strategy necessary to achieve the funding goals set forth in Section 1 above. Such written report shall, among other provisions, identify any unique issues/attributes that relate to the City of Alameda that could affect the likelihood/success of achieving the funding goals set forth in Section 1 above. Such report shall be updated each thirty (30) days during the relationship.
3. Obtain information and data from the state and federal government on matters of interest to the City of Alameda that relate to the goals set forth in Section 1 above.
4. Advise the City of Alameda concerning any matters that may be of interest to the City of Alameda with respect to the goals set forth in Section 1 above.
5. Secure and furnish such detailed information as may be available that relates to the goals set forth in Section 1 above.
6. Assist and educate City of Alameda/ARRA's federal and state legislative delegation with respect to the goals set forth in Section 1 above.
7. Provide non-legal advice to the City of Alameda City Manager's Office regarding appearances by City of Alameda/ARRA officials and staff before federal and state agencies relating to the goals set forth in Section 1 above.
8. Arrange appointments as directed by the City Manager as necessary with state and federal legislative or administrative representatives and City of Alameda/ARRA representatives as requested relating to the goals set forth in Section 1 above.

## **EXHIBIT B**

### **COMPENSATION FOR SERVICES**

Consultant shall be compensated for the services performed as set forth in Exhibit A in an amount not to exceed \$96,000, paid in 12 equal monthly installments. Consultant shall submit monthly invoices not to exceed \$8,000 per month. Invoices to be provided to the City Manager's Office within 10 days of start of month for previous month's work.

**ACORD CERTIFICATE OF LIABILITY INSURANCE**OP ID KT  
HOLLA-4DATE (MM/DD/YYYY)  
08/02/05

## PRODUCER

Brown & Brown, Inc.  
P. O. Box 15519  
Tampa FL 33684-5519  
Phone: 813-226-1300 Fax: 813-226-1313

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

## INSURED

Holland & Knight LLP  
2115 Harden Boulevard  
Lakeland FL 33803

## INSURERS AFFORDING COVERAGE

## NAIC #

INSURER A:	Federal Insurance Company	20281
INSURER B:	Sentry Insurance	
INSURER C:	Fed. Ins Co/Ohio Cas.	20281
INSURER D:		
INSURER E:		

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Incl. GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO- JECT <input checked="" type="checkbox"/> LOC	35798711	08/01/05	08/01/06	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> (Insured has no Owned Autos.)	74986035	08/01/05	08/01/06	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
C	EXCESS/UMBRELLA LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$	79818355	08/01/05	08/01/06	EACH OCCURRENCE \$ 49,000,000 AGGREGATE \$ 49,000,000 \$ \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	901492301	08/01/05	08/01/06	<input checked="" type="checkbox"/> WC STATU- TORY LIMITS <input type="checkbox"/> OTH- ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Personal Property	35798711	08/01/05	08/01/06	Spec. Form 126,939,871
A	Data Process. Equip	35798711	08/01/05	08/01/06	Incl Theft Included

## DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate holder, its City Council, boards and commissions, officers, employees and volunteers are General Liability Additional Insureds. Waiver of transfer of Rights of Recovery Against Others To Us provision applies in favor of Certificate Holder as respects General Liability, Auto Liability and Workers Compensation. \*Except 10-days for non-payment of premium

## CERTIFICATE HOLDER

ALAMEDA

City of Alameda  
Att: Christa Johnson  
2263 Santa Clara Ave, Room 280  
Alameda CA 94501

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ~~MAIL~~ MAIL 30\* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT ~~WHICH SHALL BE THE LAST DATE OF NOTICE~~

REPRESENTATIVE  
AUTHORIZED REPRESENTATIVE  
Christa Johnson

Approved as to Form  
CITY ATTORNEY

By: *[Signature]*  
Assistant City Attorney



**PROQUEST**

INSURANCE.  
RISK MANAGEMENT.  
FOR LAW FIRMS.  
WORLDWIDE.

katy marquardt  
client administrator  
proquest insurance agency  
200 south wacker drive  
suite 3850  
chicago, il 60606  
direct: 312.207.0011  
facsimile: 312.207.0022  
email:katym@proquestinsurance.com

F.

ED

# MEMORANDUM

NOV 07 2005

CITY OF ALAMEDA  
CITY MANAGER'S OFFICE

**TO: CHRISTA JOHNSON  
CITY OF ALAMEDA**

**FROM: KATY MARQUARDT  
PROQUEST INSURANCE AGENCY**

**DATE: NOVEMBER 3, 2005**

**RE: Certificate of Insurance for Holland + Knight LLP**

Christa,

Enclosed, please find the Certificate of Insurance you had requested for Holland + Knight LLP. Thanks!

-Katy



**ACORD™ CERTIFICATE OF LIABILITY INSURANCE**DATE (MM/DD/YYYY)  
11/02/05

<b>PRODUCER</b> <b>ProQuest Insurance Agency</b> 101 Southfield Road Birmingham, MI 48009 248 540-3377	<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>	
<b>INSURED</b> <b>Holland &amp; Knight LLP</b> 315 South Calhoun Street, Suite 600 Tallahassee, FL 32301	<b>INSURERS AFFORDING COVERAGE</b> INSURER A: <b>Chicago Insurance - Interstate Ins -</b> INSURER B: <b>St. Paul Companies</b> INSURER C: <b>Columbia Casualty Company</b> INSURER D: <b>Lexington</b> INSURER E: <b>Executive Risk Indemnity</b>	<b>NAIC #</b>      

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR	INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
		<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A		OTHER <b>Lawyers Prof</b>	LDUSA0500776	09/06/05	09/06/06	*

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

\*A single claim limit of liability in excess of \$10,000,000 and with an aggregate claims limit of twice the single claim limit.

**CERTIFICATE HOLDER**

City of Alameda  
 Attention: Christa Johnson  
 2263 Santa Clara Avenue  
 Room 280  
 Alameda, CA 94501

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

**CITY OF ALAMEDA**  
**MEMORANDUM**

Date: October 31, 2005

To: Honorable Mayor and  
Councilmembers

From: Debra Kurita  
City Manager

Re: Recommendation to Adopt a Resolution Approving Proposed Amendment to the 1986  
Measure B Alameda County Transportation Expenditure Plan

**BACKGROUND**

In 1986, Alameda County voters authorized a half-cent transportation sales tax, commonly referred to as Measure B, to finance improvements to the County's transportation infrastructure. The approved Expenditure Plan identified 10 major transportation projects, including the Route 238 Hayward Bypass Project (Bypass Project).

**DISCUSSION**

The Bypass Project proposed constructing a 5.3 mile segment of Route 238 on a new expressway alignment to bypass downtown Hayward, between Industrial Boulevard and I-580 in Hayward. In 2002, after multiple lawsuits, it was ruled that Measure B funds could not be used on the Bypass Project. The Alameda County Transportation Authority (ACTA), working with the City of Hayward, has developed the Route 238/Mission/Foothill/Jackson Corridor Improvement Project as an alternative to the Bypass Project. ACTA proposes to amend the Expenditure Plan to allow the substitute project to proceed. Since amendments to the Expenditure Plan require approval from a majority of the City Councils in Alameda County, ACTA requests the City of Alameda's approval. The proposed amendment also includes additional project implementation guidelines. The specifics of the proposed amendment to the 1986 Expenditure Plan are included as Attachment A.

**BUDGET CONSIDERATION/FINANCIAL IMPACT**

The proposed action does not affect the City's General Fund.

**MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE**

The proposed action does not affect the Municipal Code.

**Re: Reso 4-E**  
**11-15-05**

Honorable Mayor and  
Councilmembers

October 31, 2005  
Page 2

RECOMMENDATION

Adopt the resolution approving the proposed amendment to the 1986 Measure B Alameda County Transportation Expenditure Plan.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Naclerio", written over a horizontal line.

Matthew T. Naclerio  
Public Works Director

MTN:gc

Attachment

cc: ACTA  
Measure B Watchdog Committee

G:\pubworks\pwadmin\COUNCIL\2005\111505\ACTA.doc



Alameda  
County  
Transportation  
Authority

June 16, 2005

ATTACHMENT "A"

Mr. Bill Norton  
Acting City Manager  
City of Alameda  
2226 Santa Clara Avenue  
Alameda, CA 94501

426 17th Street  
Suite 100  
Oakland, CA 94612

Telephone:  
510/893-3347

Facsimile:  
510/893-6489

Webpage:  
[www.ACTA2002.com](http://www.ACTA2002.com)

Nate Miley, Chair  
Supervisor, District 4

Roberta Cooper, Vice-Chair  
Mayor, City of Hayward

Keith Carson  
Supervisor, District 5

Henry Chang, Jr.  
Councilmember-At-Large,  
City of Oakland

Mark Green  
Mayor, Union City

Scott Haggerty  
Supervisor, District 1

Alice Lai-Bitker  
Supervisor, District 3

Gail Steele  
Supervisor, District 2

Shelia Young  
Mayor, City of San Leandro

Christine Monsen  
Executive Director

**SUBJECT: Proposed Amendment to the 1986 Measure B Alameda County  
Transportation Expenditure Plan – Request for Presentation to  
City Council**

Dear Mr. Norton:

The Alameda County Transportation Authority (ACTA) proposes to amend the Measure B Alameda County Transportation Expenditure Plan that was endorsed by Alameda County voters in 1986. The enabling statutes (Bay Area County Traffic and Transportation Funding Act) that govern the administration of the Measure B Program prescribe that an amendment to the Expenditure Plan is required when a project is added, deleted, or revised in a substantive manner. The statutes also require that in order for the Amendment to be effective, it must receive the approval of the majority of the city councils in Alameda County that represents the majority of the population in the County. Approval is also required from the Metropolitan Transportation Commission (MTC), the Alameda County Board of Supervisors, and the designated sponsor of the project that is to be deleted from the Expenditure Plan. The proposed amendment does not require approval of the voters.

This letter is to request that an agenda item be scheduled on a future meeting of your city council to request its consideration and approval of the Authority's proposed Amendment to the 1986 Measure B Expenditure Plan, as required by law. Amending the Expenditure Plan is a matter that rarely occurs and this proposed amendment is the first one being undertaken by the Authority. As such, there is a good chance that the City may not be fully aware of details the proposed Plan Amendment. Therefore, in order to provide some advance information on this matter prior to our formal presentation to all the city councils, we have scheduled a presentation to the City Managers in the County at the monthly meeting of the Alameda County City Managers Association on July 20, 2005.

The specifics of the Authority's proposed amendment to the 1986 Expenditure Plan is included in Attachment A to this letter. The amendment would essentially accomplish the following:

1. Delete the Route 238 Hayward Bypass Project and associated Measure B funding from the Expenditure Plan;

2. Add the new Route 238/Mission/Foothill/Jackson Corridor Improvement Project to the Plan. This new project was proposed by the City of Hayward and approved by the Board in May of 2005. The Plan Amendment includes \$80 million of Measure B funds for this project;
3. Add the I-580/Redwood Road Interchange Improvement Project in Castro Valley. The Authority proposes a Measure B funding level of \$15 million to be programmed to this new project. The sponsor of this project is proposed to be the Alameda County Transportation Improvement Authority (ACTIA);
4. Add the Central Alameda County Freeway Operations Study. The Authority proposes a Measure B funding level of \$5 million to be programmed for the study efforts. The sponsors of the Study are proposed to be the Alameda County Congestion Management Agency (ACCMA) and ACTA;
5. Add the Castro Valley Local Traffic Improvements Project. ACTA proposes a Measure B funding level of \$5 million to be programmed to this new project(s). The sponsor of this project is proposed to be Alameda County; and
6. Add additional project implementing guidelines specific to the projects added to the Expenditure Plan to improve project delivery and to enhance accountability.

With respect to the timeframe for the Expenditure Plan Amendment process, it is our goal to have the Amendment be fully approved by all the required jurisdictions and stakeholders by the end of January 2006. The Plan Amendment process and schedule are described in Attachment B to this letter. As you will note, our ability to meet the deadline for the completion of the Amendment process will depend on the timeliness of the city councils' actions on the matter. To that end, we request your cooperation in working with Authority staff in scheduling and bringing the item forward to your city council for its consideration.

We look forward to presenting the Authority's Expenditure Plan Amendment to the City Managers Association on July 20, 2005. If you have any questions or need additional information, please contact me at (510) 267-6103, or Arthur Dao, Deputy Director, at 267-6104.

Sincerely,



Christine Monsen  
Executive Director

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Mr. Bill Norton  
June 16, 2005  
Page 3

Attachments: Attachment A ~ Proposed Expenditure Plan Amendment (Amendment No. 1)  
Attachment B ~ 1986 Expenditure Plan Amendment Process and Time Frame

cc: Matthew T. Naclerio, Public Works Director - City of Alameda  
Zack Wasserman, ACTA Legal Counsel - Wendel rosen Black & Dean  
Arthur Dao, Deputy Director - ACTA  
Trudye Johnson - ACTA Clerk  
Jim Ogren - ACTA Project Controls Team  
File: MB 238  
Chron file

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## **ATTACHMENT A**

### **Proposed Expenditure Plan Amendment (Amendment No. 1) to Replace the Route 238 Bypass Project with the Hayward Route 238/Mission/Foothill/Jackson Corridor Improvement Project**

#### **INTRODUCTION AND BACKGROUND**

In 1986, Alameda County voters authorized a half-cent transportation sales tax to finance improvements to the County's overburdened transportation infrastructure. This tax expires in 2002. A detailed Expenditure Plan guides the use of those funds. Most of the 10 major projects authorized by the 1986 Expenditure Plan have been completed or are under construction, and those that are still in the design and environmental review stage are scheduled to begin construction in the next few years.

One of the 1986 Expenditure Plan projects was the construction of a 5.3 mile segment of Route 238 on a new expressway alignment to bypass downtown Hayward, between Industrial Boulevard and I-580 in Hayward. This project was commonly referred to as the Route 238 Hayward Bypass Project. In the Expenditure Plan, Caltrans was named as the project sponsor. The Bypass Project has been embroiled in controversies since Caltrans commenced the project design in the mid-1960. By the early 1970's, Caltrans had acquired two-thirds of the needed right of way for the project, which triggered a lawsuit regarding replacement housing by the Sierra Club and the Legal Aid Society of Alameda County representing La Raza Unida of Southern Alameda County. The suit resulted in an injunction, which is still in effect. However, the Court established a mechanism for the removal of the injunction through a Consent Decree that was approved in 1990.

Through the three decades between the 1970's and 1990's, the development of the Bypass Project was also impeded by a series of changes in the environmental statutes and regulations, as well as regional and local transportation plan updates. In 1997, a second lawsuit was filed against the project by the Hayward Area Planning Association (HAPA) and the Citizens for Alternative Transportation Solutions (CATS). This suit resulted in a final ruling in 2002 that Measure B funds could not be used in the delivery of the Hayward Bypass Project, effectively depleting the only major funding source for the project.

Since the 2002 Court ruling, ACTA and the City of Hayward have been working on the development of an alternative project to the Hayward Bypass Project that could meet the purpose of the original project and one be eligible for Measure B funding. In April of 2005, the ACTA Board voted to approve the City of Hayward's proposed Route 238/Mission/Foothill/Jackson Corridor Improvement Project and to begin the process to amend the 1986 Measure B Expenditure Plan to replace the Hayward Route 238 Bypass Project with the Route 238/Mission/Foothill/Jackson Corridor Improvement Project.



The Proposed Replacement Route 238/Mission/Foothill/Jackson Corridor Improvement Project includes the following major features:

- Generally on Mission Boulevard between Industrial Parkway and Jackson Street and on Foothill Boulevard between A Street and Mattox Road, conversion of the parking lane to a through traffic lane during peak periods only;
- Foothill Boulevard would become one-way northbound from the Mission/Foothill/Jackson grade separation to A Street;
- A Street would become one-way westbound from Foothill Boulevard to Mission Boulevard;
- Mission Boulevard would become one-way southbound from A Street to the Mission/Foothill/Jackson grade separation;
- B Street would revert to two-way traffic between Foothill Boulevard and Second Street;
- Partial grade separations would be at the Mission/Foothill/Jackson intersection and at Jackson/Watkins intersection;
- Substantial intersection improvements at the Mission/Carlos Bee intersection; and
- Other improvements as proposed by the City of Hayward.

## PROPOSED AMENDMENT NO. 1 TO THE 1986 EXPENDITURE PLAN

Thus, pursuant to the enabling legislation of Measure B, under Public Utility Code Sections 131304 and 131050, which allows for the Authority to add, delete a project, or to make changes of major significance, it is proposed that an amendment to the 1986 Expenditure Plan be approved to reflect the following:

1. **Delete references to the Route 238 Project currently in the project description in the Expenditure Plan's Essential Transportation Project List as follows:**

<b>Project:</b>	<i>Route 238 and Route 84</i>										
<b>Cost:</b>	<i>\$77 million                      Sales tax contribution: \$67 million</i>										
<b>Sponsor:</b>	<i>Caltrans</i>										
<b>Description:</b>	<p><i>Route 238 (Mission Boulevard) will be built as a six lane roadway from Industrial Parkway to Route 84 near Decoto Road, existing Mission Boulevard will be widened to six lanes to existing Route 84 will then be built along a previously adopted alignment where right of way have been acquired to intersect with 880.</i></p> <p><i>Note: Although the new Route 84 will likely intersect Route 238 somewhere north of Peralta Avenue, the six lane conventional road is intended to extend to Peralta Avenue. The remaining \$10 million to complete the Route will come from other sources; i.e., local assessment districts, thus providing leveraging for the sales tax funds. The project is contingent upon receipt of the \$10 million. If it is not forthcoming, the project will not be built. (2)</i></p>										
<b>Note (2)</b>	<p><i>Cost break-out is as follows:</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-left: 20px;"><i>A)   Rte. 238 through Union City</i></td><td></td></tr> <tr> <td style="padding-left: 40px;"><i>Widening existing Mission Blvd. to 6 lanes</i></td><td style="text-align: right;"><i>15M</i></td></tr> <tr> <td style="padding-left: 20px;"><i>B)   Rte 84 – 4 lane freeway</i></td><td style="text-align: right;"><i>55M</i></td></tr> <tr> <td style="padding-left: 20px;"><i>C)   Engineering/Design</i></td><td style="text-align: right;"><i>7M</i></td></tr> <tr> <td style="padding-left: 20px;"><i>Total</i></td><td style="text-align: right;"><i>77M</i></td></tr> </table>	<i>A)   Rte. 238 through Union City</i>		<i>Widening existing Mission Blvd. to 6 lanes</i>	<i>15M</i>	<i>B)   Rte 84 – 4 lane freeway</i>	<i>55M</i>	<i>C)   Engineering/Design</i>	<i>7M</i>	<i>Total</i>	<i>77M</i>
<i>A)   Rte. 238 through Union City</i>											
<i>Widening existing Mission Blvd. to 6 lanes</i>	<i>15M</i>										
<i>B)   Rte 84 – 4 lane freeway</i>	<i>55M</i>										
<i>C)   Engineering/Design</i>	<i>7M</i>										
<i>Total</i>	<i>77M</i>										

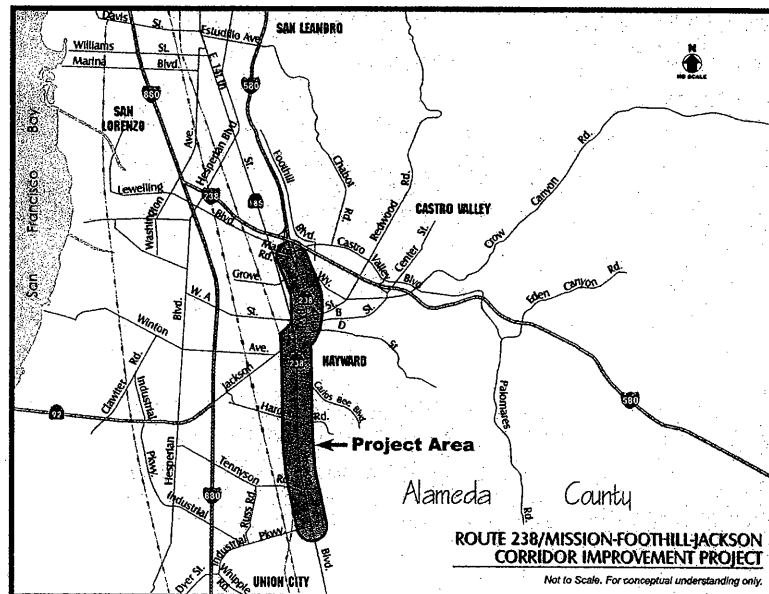
2. Add the City of Hayward's Proposed Route 238/Mission-Foothill-Jackson Corridor Improvement Project as follows:

**Project:** Route 238/Mission-Foothill-Jackson Corridor Improvement Project In Hayward

**Cost:** \$91.5 million ACTA Measure B Sales tax contribution: \$80.0 million (inclusive of \$1.5 million for project definition)

**Sponsor:** City of Hayward

**Description:**



Route 238/Mission-Foothill-Jackson Corridor Improvements in Hayward will include capacity and operational as well as pedestrian and bicycle improvements on Foothill and Mission Boulevards between Mattox Road and Industrial Parkway. Between Mattox Road and A Street, Foothill Boulevard will generally accommodate three northbound and three southbound lanes plus the conversion of the existing parking lane to a through traffic lane in each direction during peak periods only. Between A Street and Jackson Street, the project will convert some existing streets to a new one-way street system as follows: A Street will become a one-way street with five westbound lanes, joining Mission Boulevard as a one-way street with five southbound lanes, and meeting a grade separation at the intersection at Foothill/ Mission/Jackson. From the grade separation, Foothill Boulevard will be reconfigured to a one-way street with six northbound lanes to A Street. Between the grade separation and Industrial Parkway, Mission Boulevard will accommodate two lanes northbound and southbound plus a conversion of the existing parking lane to a through traffic lane in each direction during peak periods. Several intersections along Foothill and Mission Boulevards will also be improved, including, but not limited to, the Carlos Bee Boulevard/Mission Boulevard intersection. The final scope of the project will be determined by the environmental clearance process.

*Cost and funding break-out and proposed schedule are as follows:*

***Tentative Cost Breakdown (Subject to Change):***

	<b><i>Cost</i></b> <b><i>(\$ x 1 million)</i></b>
<i>Scoping</i>	<i>1.5</i>
<i>Environmental/Preliminary Engineering</i>	<i>1.5</i>
<i>Design</i>	<i>8.0</i>
<i>Right-of-Way Support and Capital</i>	<i>12.5</i>
<i>Construction Support and Capital</i>	<i><u>68.0</u></i>
<b><i>Total</i></b>	<b><i>91.5</i></b>

***Funding:***

*\$80.0 million – ACTA Measure B*

*\$11.5 million – City of Hayward*

***\$91.5 million - Total***

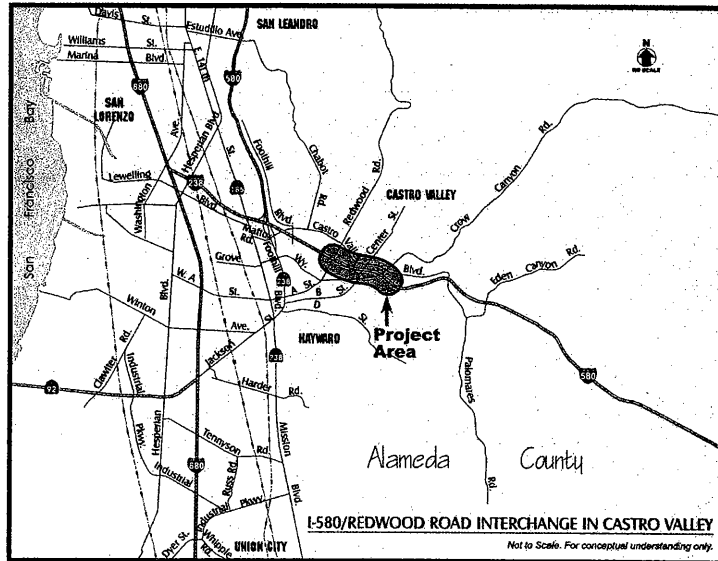
***Tentative Schedule:***

	<b><i><u>Begin</u></i></b>	<b><i><u>End</u></i></b>
<i>Scoping</i>	<i>Spring 2003</i>	<i>Spring 2005</i>
<i>Environmental/ Preliminary Engineering</i>	<i>Summer 2005</i>	<i>Winter 2006</i>
<i>Design</i>	<i>Summer 2006</i>	<i>Spring 2008</i>
<i>Right-of-Way Support and Capital</i>	<i>Summer 2006</i>	<i>Winter 2008</i>
<i>Construction Support and Capital</i>	<i>Fall 2008</i>	<i>Summer 2011</i>

3. **Add the I-580/Redwood Road Interchange Project in Castro Valley** as supplemental improvements to the Hayward Route 238 Corridor Improvement Project as follows:

**Project:** I-580/Redwood Road Interchange Improvements Project in Castro Valley  
**Cost:** \$29 million ACTA Measure B Sales tax contribution: \$15 million  
**Sponsor:** Alameda County Transportation Improvement Authority (ACTIA)

**Description:**



The project is comprised of the following elements (subject to definition in the environmental document):

- Construct a new westbound off-ramp from I-580 to Redwood Road;
- Construct a new eastbound on-ramp from Redwood Road to I-580;
- Replace the existing eastbound I-580 off-ramp to Center Street with a new off-ramp to Grove Way; and
- Remove the existing westbound on-ramp from Castro Valley Boulevard to I-580.

Cost break-out and proposed schedule are as follows:

**Tentative Cost Breakdown:**

	<b>Cost</b> (\$ x 1 million)
Scoping	0.7
Environmental/Preliminary Engineering	0.7
Design	2.1
Right-of-Way Support and Capital	8.5
Construction Support and Capital	<u>17.0</u>
<b>Total</b>	<b>29.0</b>

***Funding:***

*\$15.0 million – ACTA Measure B*

*\$11.3 million – ACTIA Measure B*

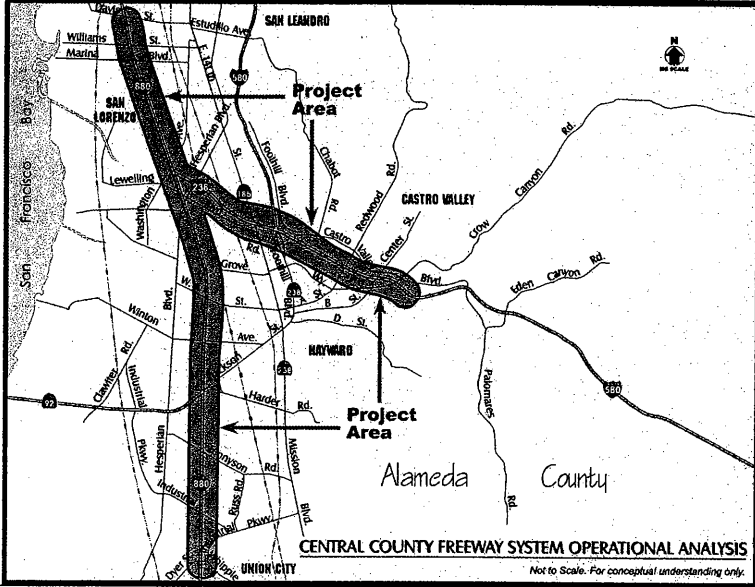
*\$2.7 million – Local*

***\$29.0 million - Total***

***Tentative Schedule:***

	<b><u><i>Begin</i></u></b>	<b><u><i>End</i></u></b>
<i>Scoping</i>	<i>Spring 2003</i>	<i>Summer 2004</i>
<i>Environmental/Preliminary Engineering</i>	<i>Summer 2004</i>	<i>Fall 2006</i>
<i>Design</i>	<i>Summer 2005</i>	<i>Spring 2007</i>
<i>Right-of-Way Support and Capital</i>	<i>Summer 2005</i>	<i>Spring 2007</i>
<i>Construction Support and Capital</i>	<i>Spring 2007</i>	<i>Fall 2009</i>

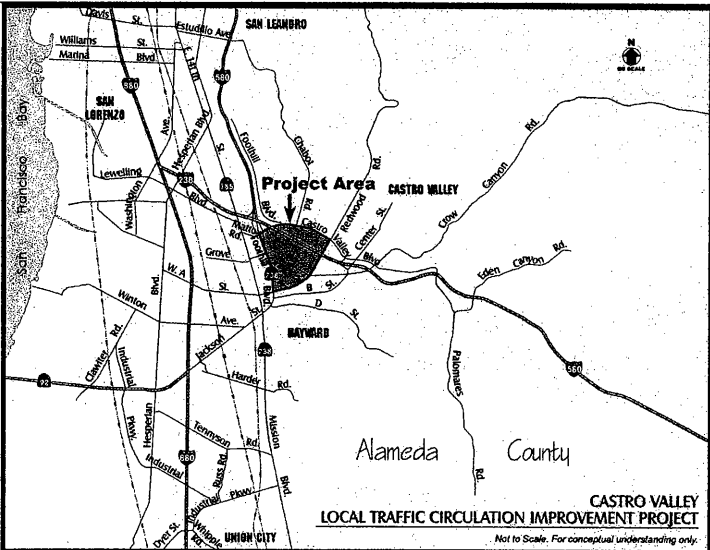
4. Add the Central Alameda County Freeway System Operational Analysis as follows:

<b>Project/Study:</b>	<i>Central Alameda County Freeway System Operational Analysis</i>
<b>Cost:</b>	<i>\$5 million                      ACTA Measure B Sales tax contribution: \$5 million</i>
<b>Sponsor:</b>	<i>Alameda County Transportation Improvement Authority (ACTIA) and Alameda County Congestion Management Agency (ACCMA)</i>
<b>Description:</b>	 <p><i>The transportation planning study will document the long and short range plan for State highway improvements in the I-880, I-580 and I-238 Corridors, in Central Alameda County. The study shall include planning level traffic operations analysis, traffic congestion and operational problem/deficiency identification, benefit-cost analysis, project implementation strategy, and technical report. The Central County area includes the Cities of Hayward, San Leandro and unincorporated areas of Alameda County. The suggested limits for the corridors to be studied are: I-880 from Whipple Road to Davis Street; I-580 from Crow Canyon to I-238; and I-238 from I-580 to I-880. Specific projects to be considered in this planning study will include, but will not be limited to those in the Alameda Countywide Transportation Plan and the ACTIA Measure B Expenditure Plan, as well as those that already have approved Project Study Reports. Other roadway improvements may be added as appropriate.</i></p> <p><i>The purpose and objective of the study involves the development of a technical report that addresses the long-range plan and the sequencing of improvements that will be required to achieve the most practical traffic relief in the I-880, I-580 and I-238 Corridors. The technical report will summarize the various project scopes, schedules and costs; funding availability; recommended project sequencing; and an implementation strategy that will provide the improvements that are most cost effective and consistent with the transportation needs in the area. The technical report could be also used for preparation of programming documents (Caltrans</i></p>

	<p><i>Project Study Report) for possible State funding from the State Transportation Improvement Program (STIP), State Highway Operation and Protection Program (SHOPP), and/or proceeds from the sales of excess right-of-way pursuant to the SB 509 Statute.</i></p>
	<p><i>Cost break-out and proposed schedule are as follows:</i></p> <p><b>Cost:</b> <i>Costs for the technical studies and subsequent Project Study Reports will be identified at the initiation of this project.</i></p>
	<p><b>Funding:</b></p> <ul style="list-style-type: none"> <li>• <i>\$5 million – ACTA Measure B.</i></li> <li>• <i>No other funding source identified at this time. However, there is potential funding from sale of state owned right-of-way associated with Route 238 Bypass Project pursuant to the SB 509 Statute.</i></li> </ul>
	<p><b>Tentative Schedule:</b></p> <ul style="list-style-type: none"> <li>• <i>Technical studies identifying a list of potential projects – 6 months after Expenditure Plan Amendment approval.</i></li> <li>• <i>Project Study Reports for selected projects – 5 years after Expenditure Plan Amendment approval.</i></li> </ul>



5. Add the Castro Valley Local Traffic Circulation Improvement Project as follows:

<b>Project/Study:</b>	Castro Valley Local Area Traffic Circulation Improvement Project
<b>Cost:</b>	\$5 million ACTA Measure B Sales tax contribution: \$5 million
<b>Sponsor:</b>	Alameda County Public Works Agency
<b>Description:</b>	 <p>Perform a Study in order to identify and prioritize transportation projects, and implement projects that advance safe and efficient multi-modal transportation objectives.</p> <p><u>Background:</u>  The Route 238 Bypass and the accompanying ramps from I-580 to the Route 238 Bypass would have provided congestion relief and reduced regional bypass and cut through traffic on numerous arterial, collector and local roads in the Baywood area of Unincorporated Alameda County. The proposed Hayward Route 238 Corridor Improvement Project does not provide these same benefits. The Baywood area of Unincorporated Alameda County is bounded by Castro Valley Boulevard, A Street and Foothill Boulevard.</p> <p><u>Description:</u>  The Alameda County Public Works Agency (ACPWA) will develop a list of projects for the potential use of these ACTA funds that will provide congestion relief and potentially increased capacity, and may address the regional bypass and cut through traffic that the Baywood area is presently experiencing. These projects will be evaluated against a set of criteria developed by ACPWA which may include, but not limited to, congestion reduction, capacity enhancement, regional bypass and cut through traffic alleviation, cost-benefit, community acceptance, political acceptance, project readiness and confidence in project implementation. ACPWA will</p>

	<p><i>develop a list of projects to be pursued with the Measure B funds and present them to the Board of Supervisors for their review and, if appropriate, approval. Project information will be shared with the City of Hayward on an ongoing basis for review and comment.</i></p> <p><i>All phases of project development (preliminary engineering, environmental, design, right-of-way engineering and acquisition, and construction capital and support) are eligible for use of these funds.</i></p> <p><i>It should be noted that the list of projects developed by the ACPWA may not be included presently in any County transportation programming document. However, the need for these projects has been known by ACPWA staff and voiced by the Baywood area constituency for some time.</i></p>
	<p><i>Cost break-out and proposed schedule are as follows:</i></p> <p><b>Cost:</b> <i>Cost for the various project development phases to be developed with the list of projects by ACPWA.</i></p>
	<p><b>Funding:</b> <i>\$5 million</i></p>
	<p><b>Tentative Schedule:</b> <i>Completion of List of Projects, Evaluation of Projects and Approval of List of Project by the Board of Supervisors – 6 months after Expenditure Plan Amendment approval.</i></p> <p><i>Implementation of List of Projects with Measure B Funds – 5 years after Expenditure Plan Amendment approval.</i></p>

**6. Add Implementing Guidelines as follows:**

- a.** The goal of the Amendment to the Expenditure Plan is to complete the remaining projects in the Plan in a timely manner. All added projects will be given five years from the date of the final approval of this Expenditure Plan Amendment to obtain environmental clearance, approval from all agencies having jurisdiction over the proposed improvements, support from the community, and full commitment of funds from all sources required to develop and construct the project. Projects that cannot meet this requirement may appeal to the Authority for extension(s) of one year duration.
- b.** Should an added project become infeasible or unfundable due to circumstances unforeseen at the time of the Amendment, funding may be applied to other projects in the Expenditure Plan by the Authority.
- c.** Under no circumstance may Measure B funds be applied to any purpose other than direct transportation improvements in Alameda County. The funds may not be used for any projects or studies other than those specified in the Amendment without an additional specific amendment to the Expenditure Plan.
- d.** Project costs in excess of the amount of Measure B funding identified in the Amendment will be the responsibility of the Project Sponsor. Measure B funding for the added projects and studies are capped at the amounts identified in the Amendment.

**ATTACHMENT B**

**1986 Expenditure Plan Amendment Process and Time Frame**

<b>Step No.</b>	<b>Action</b>	<b>Start</b>	<b>Finish</b>	<b>Responsible Party</b>
1.	ACTA Board approves initiation of Plan Amendment	04/28/2005	04/28/2005	ACTA Board
2.	Preparation of Plan Amendment language and gathering project information	04/18/2005	04/28/2005	ACTA and Hayward Staffs
3.	ACTA Board approves Expenditure Plan Amendment	05/26/2005	05/26/2005	ACTA Board
4.	Proposed Amendment forwarded to MTC, ACCMA, and Caltrans	05/27/205	05/27/2005	ACTA Staff
5.	MTC reviews the Proposed Amendment and holds a public hearing	07/08/2005	08/22/2005	MTC Staff and Commission
6.	ACTA presents the Proposed Amendment to the City Councils (14) and County BOS <sup>1</sup> for approval	08/23/2005	01/24/2006	ACTA Staff
7.	Amended Plan documented and distributed	01/24/2006	1/31/2006	ACTA Staff

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

APPROVING PROPOSED AMENDMENT TO THE 1986 MEASURE B  
ALAMEDA COUNTY TRANSPORTATION EXPENDITURE PLAN

WHEREAS, in 1986 Alameda County voters approved Measure B and authorized a half-cent transportation sales tax to finance improvements to the County's transportation infrastructure; and

WHEREAS, the approved Expenditure Plan identified 10 major transportation projects, which included the Route 238 Hayward Bypass Project; and

WHEREAS, the Route 238 Hayward Bypass Project was ruled ineligible for Measure B funds and the Route 238/Mission/Foothill/Jackson Corridor Improvement Project was developed as an alternate project; and

WHEREAS, the Alameda County Transportation Authority proposes to amend the Expenditure Plan to allow the alternate project to proceed and to include additional project implementation guidelines; and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Alameda does hereby approve the proposed amendment to the 1986 Measure B Alameda County Transportation Expenditure Plan.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a certified copy of this resolution to the Alameda County Transportation Authority.

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the 15<sup>th</sup> day of November 2005, by the following vote to wit:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSECTIONS: \_\_\_\_\_

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 15th day of November 2005.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

Resolution # 4-E CC  
11-15-05

Approved as to Form

*Carol A. Hovach*  
CITY ATTORNEY

**CITY OF ALAMEDA**  
**MEMORANDUM**

To: Honorable Mayor and  
Councilmembers

From: Debra Kurita  
City Manager

Date: November 3, 2005

Re: Resolution Setting Free All-Day Parking, with a Three-Hour Maximum per Car per Space,  
for the Park Street and the West Alameda Business Districts on December 3, 10, and 17,  
2005

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**BACKGROUND**

In November 2002, City Council adopted a Resolution granting free parking the Saturday before Christmas in both the Park Street and Webster Street Business Districts in perpetuity. Accordingly, free parking will occur December 24 of this year in each District. Both the Park Street Business Association (PSBA) and the West Alameda Business Association (WABA) are requesting that this benefit be extended this year for three additional Saturdays.

**DISCUSSION**

Last year, City Council authorized three additional “free parking” Saturdays before Christmas in both Business Districts for a total of four Saturdays. This year, PSBA and WABA are requesting the same consideration from Council. Both districts have experienced the impact of major streetscape projects and would like to provide parking incentives to attract holiday shoppers.

**FISCAL IMPACT**

The free parking Saturday’s will result in a reduction in parking meter revenue. The City Finance Department estimates average daily revenue from parking meters as follows:

- Park Street Business District - \$1,331.88
- Webster Street Business District - \$271.03

If parking meters are made free an additional three days in each Business District, an estimated \$4,808.73 in parking meter revenue will not be collected. While some parking meter revenue may be lost to the City, it is quite likely to be offset by increased sales tax due to greater retail patronage. As in previous years, PSBA and WABA will provide parking meter hoods as well as the staff to place and remove the hoods on the free parking days.

**Re: Reso 4-F**  
**11-15-05**

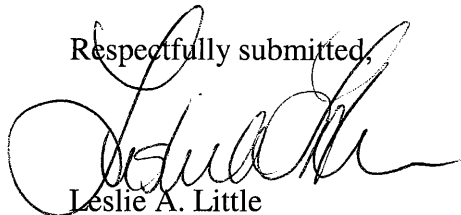
**MUNICIPAL CODE CROSS-REFERENCE**

Parking meter fees, time limits and holidays are established within the Alameda Municipal Code, specifically Sections 12-13.2(a) and 12-16.4. Council can offer free parking in both the Webster Street Business District and the Park Street Business District by Resolution in accordance with the sections of the Code.

**RECOMMENDATION**

The City Manager recommends adoption of a resolution setting free all-day parking, with a three-hour maximum per car per space, for the Park Street and the West Alameda Business Districts on December 3, 10, and 17, 2005.

Respectfully submitted,



Leslie A. Little  
Development Services Director



By: Dorene Soto  
Manager, Business Development Division



Sue G. Russell  
Development Coordinator

LAL/DS/SGR

cc: Park Street Business Association  
West Alameda Business Association  
Matt Naclerio, Public Works Director  
Interim Chief of Police Craig Ojala

*Dedicated to Excellence, Committed to Service*

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_\_

ESTABLISHING ANNUAL FREE ALL-DAY PARKING, WITH A THREE-HOUR MAXIMUM PER CAR PER SPACE, FOR THE WEBSTER STREET AND THE PARK STREET BUSINESS DISTRICTS ON DECEMBER 3, 10, AND 17, 2005

WHEREAS, in 2002 Council set the Saturday before December 25 as a day that parking meters be free in both the West Alameda and Park Street Business Districts; and

WHEREAS, both the West Alameda and the Park Street Business Associations request that the free parking on Saturday practice be extended in 2005 to three additional Saturdays prior to December 24; and

WHEREAS, each District may realize an increase in sales due to free parking meters and shoppers would be encouraged to shop in each District should parking meters be free; and

WHEREAS, the City loss of revenue from free parking meters may be off-set by increased sales in each District; and

WHEREAS, parking meter fees, time limits, and holidays are established in accordance with Alameda Municipal Code section 12-13.2 (a) and 12-16.4 respectively; and

WHEREAS, parking fees are established by Resolution of the City Council.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Alameda that the City Council, by Resolution, hereby suspends meter fees in both the Webster Street and the Park Street Business Districts between 9:00 a.m. and 6:00 p.m. on December 3, 10, and 17, 2005. Vehicles may not, however, occupy one space for more than three hours. After three hours, a vehicle may be ticketed.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to forward a certified copy of this Resolution to the West Alameda and the Park Street Business Associations.

\* \* \* \* \*

Resolution # 4-F CC  
11-15-05

Approved as to Form

*Carol A. Korade*  
CITY ATTORNEY



I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting assembled on the 15<sup>th</sup> day of November 2005 by the following vote to-wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_\_ day of November 2005.

---

Lara Weisiger, City Clerk  
City of Alameda

CURRENT APPLICATIONS  
ECONOMIC DEVELOPMENT COMMISSION  
TWO (2) VACANCIES

COMMUNITY AT LARGE SEAT - Partial term expiring 8/31/2009  
**REAL ESTATE/LAND DEVELOPMENT SEAT – Partial Term Expiring 8/31/2006\***

**Arshad A. Ahmed\***

Robert A. Bonta

**Michael F. Fassler\***

**Claire C. Fitzgerald\***

**Frederick F. Hollister\***

Jay L. Ingram

**Janet W. Iverson\***

**Kirk H. Knight\***

Carrolyn M. Kubota

Lenard L. Lee

Diane C. Litchesnstein

Christopher D. Lundeen

**James A. Nations\***

James A. Price

Stephanie L. Prothero

Valerie Ruma

**Brad C. Shook\***

**Karen M. Stefonek\***

**Jay G. Townley\***

**Morris H. Trevithick\***

Kevin D. Waite

Randy K. Watkins

CURRENT APPLICATIONS  
RECREATION AND PARK COMMISSION  
**ONE (1) VACANCY**  
**Partial Term Expiring 9/30/2009**

Bill L. Bocascci

Kathryn F. Boyle

Michael Cosentino

John F. Curliano

James A. Currier

Lauren R. Eisele

Linda F. Gilchrist

Harry L. Hartman

Lee A. Kaplan

Geoffrey M. Lee

Jessica Lindsey

Scott A. McKay

Tim R. Marr

Lissa V. Merit

Jessica S. Niland

Cookie Robles-Wong

Ruben Tilos

Gail A. Wetzork



**Alice Lai-Bitker**, SUPERVISOR, THIRD DISTRICT

ALAMEDA COUNTY BOARD OF SUPERVISORS

**COMMITTEES:**

Health, Chair  
Social Services  
Unincorporated Services

November 7, 2005

Mayor Beverly Johnson  
Alameda City Council  
2263 Santa Clara Avenue  
Alameda, CA 94501

Dear Mayor Johnson:

This letter is to request from the Alameda City Council \$5,000 to be used in conducting the feasibility of increasing the County Service Area fee.

In 1991 the Alameda City Council formally joined the County Service Area of the Lead Abatement District to address high levels of lead found in many Alameda County children. Alameda joined with the cities of Berkeley, Emeryville, and Oakland in participating in the Alameda County Lead Poisoning Prevention Program (ACLPPP) by assessing a \$10 annual fee on all pre-1978 residential units and forming a Joint Powers Authority (JPA). This fee is used to reduce exposure to lead hazards, to increase awareness of residential lead source, and to ensure lead hazards are addressed in a safe manner.

ACLPPP has been successful in matching the local commitment of funds with grants from the US Department of Housing and Urban Development and State Department of Health Services. However these funds are not guaranteed and the ACLPPP fee has not been increased since its adoption in 1991 nor does it have a provision for a cost of living increase.

Currently due to decreasing federal and state funding, the ACLPPP has reduced its staff and program scope. During discussions for the 2005-2006 fiscal year, JPA members discussed the possibility of increasing the \$10 annual fee as a way to support ACLPP activities. Services most at risk in the city of Alameda include:

- 55 In-home consultations
- 33 Lead safe painting kits
- 2 Lead-Safe Painting and Remodeling classes
- Educational materials, information and literature to a total of 12 Alameda offices, libraries, hardware and paint stores
- Technical assistance to owners of property where a lead poisoned child has been identified

**Re: 7-B  
11-15-05**

- HIEPA Vacuums to assist 12 Alameda property owners conduct lead-safe clean up during and after renovation.

In conjunction with Supervisor Nate Miley and my office, JPA members have discussed conducting a survey to gauge voter support for different level of fee increases. A proposal by Larry Tramutola, working in conjunction with Godbe Research, was initially priced at \$66,000 but negotiated down to \$54,679. To pay for these services an allocation formula that recognizes the difference in size and resources of each city is outlined as follows:

Oakland	\$14,999
Berkeley	\$ 9,680
Alameda	\$ 5,000
Emeryville	\$ 3,000
	\$32,679

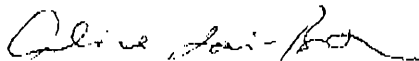
In addition Alameda County Community Development Agency and SEIU local 616 have already committed to contribute \$11,000 each.

The proposal by Tramutola/Godbe will consist of a 12-minute survey of both property owners and registered voters. The survey will gauge support for different levels of fee increases. The results would assist in determining whether to seek a two-thirds majority vote of the electorate or a simple majority of all affected property owners. The property owners' vote is weighed on the number of units owned. Godbe has experience in conducting polls that not only would gauge the level of support for a measure but also at the same time determine which route would be more advisable. Tramutola will conduct the planning and feasibility assessment. Funds provided by the cities will only be used to find out if and under what conditions there is support to increase the CSA fee.

If all the cities agree to support their request for funds, Alameda County Auditor Patrick O'Connell will establish an independent trust fund for the sole purpose of conducting the survey and the survey analysis. The County Auditor will monitor the trust fund.

I look forward to Alameda's support of \$5,000 to conduct the feasibility survey of increasing the CSA Fees.

Sincerely,



ALICE LAI-BITKER  
Alameda County Supervisor, Third District

ALB: RB

# **ALAMEDA COUNTY LEAD POISONING PREVENTION PROGRAM**

## **City of Alameda**

### **History**

In 1987, the California Department of Health Services conducted a study that found high levels of lead in many Alameda County children. In response to calls for action by local community organizations, the County Health Officer formed a task force comprised of city, county and state public health professionals, pediatricians, community groups, and county housing officials. This task force designed a unique program that combined housing, health, and environmental programs to serve children and their families at high risk for lead poisoning.

In 1991, the Alameda County Board of Supervisors passed a resolution establishing the Alameda County Lead Abatement District, which allowed cities in the county to participate in the Alameda County Lead Poisoning Prevention Program (ACLPPP) by assessing a \$10 annual fee on all pre-1978 residential units.

On October 16, 1991, the Alameda City Council formally joined the County Service Area (CSA) of the Lead Abatement District. Other participating cities in the CSA include Berkeley, Emeryville, and Oakland.

Since its inclusion in the CSA, the Alameda City Council has voted eight times to continue its participation in the CSA.

The ACLPPP works with local and statewide organizations to educate the community about the dangers of lead poisoning. With an approach combining health, environmental and residential hazard reduction services, the department maintains a leadership role in statewide, interagency and community collaborations. Its mission is to prevent and reduce the incidence of childhood lead poisoning by:

- Educating the public to the dangers of lead poisoning.
- Providing case management services to lead poisoned children.
- Identifying, reducing and remediating lead hazards.

## **ALAMEDA COUNTY LEAD POISONING PREVENTION PROGRAM**

- Assisting local housing departments, contractors, and maintenance crews in remediating lead hazards.
- Assisting the medical community in identifying and effectively treating lead poisoned children.

### **Governance**

The ACLPPP is governed by a Joint Powers Authority Board of Directors, comprised of a representative of the City Council of each CSA city and one ex-officio member each from Alameda County Board of Supervisors and the community-at-large.

### **CSA Property Owner Services**

The annual CSA service fee is used to reduce exposure to lead hazards, to increase awareness of residential lead sources, and to ensure lead hazards are addressed in a safe manner.

Property owners are also notified of increasingly strict Federal and State regulations governing lead hazards, and how to avoid fines and potential liability. CSA services are provided to property owners in the cities of Oakland, Berkeley, Alameda, and Emeryville, based on the percentage of funds received from each city.

For City of Alameda property owners in fiscal Year 2004-05, the ACLPPP:

- Conducted 34 lead evaluation site visits
- Responded to 96 Information Line calls
- Conducted two Lead-Safe Painting and Remodeling classes
- Provided educational materials, information and literature to a total of 12 Alameda offices, libraries, hardware and paint stores
- Provided lead education at nine public education events
- Loaned 12 Alameda property owners HEPA Vacuums to assist lead-safe clean-up during and after renovation.

## **ALAMEDA COUNTY LEAD POISONING PREVENTION PROGRAM**

In addition, under its HUD Round X Lead Hazard Control Grant, which ended July 31, 2005, the ACLPPP, working in conjunction with the City of Alameda Development Services Department, financed the remediation of lead hazards in 32 low-income City of Alameda residential units, at a cost of \$160,000.

Since its inception in 1992, the ACLPPP has used CSA dollars to leverage more than 19 million in federal dollars from the U.S. Department of Housing and Urban Development, the Environmental Protection Agency and the Centers for Disease Control and Prevention for services to CSA property owners.

### **Blood Lead Screening & Case Management**

Since 1993, the ACLPPP has received California Department of Health Services funding to provide comprehensive case management services to lead poisoned children and their families. In addition to medical case management by Public Health Nurses, DHS-funded activities include advocacy for blood lead screening, and technical assistance and education to medical providers, Medi-Cal Managed Care Plans, and high-risk communities. In addition, Environmental Investigations are conducted in the homes of children with elevated blood lead levels (EBLLs) throughout Alameda County to identify the sources of lead hazards.

Since program's inception, 1,770 children and their families have been case managed for lead poisoning and 200,000 children in Alameda County have been screened for lead poisoning.